

No. 14551

United States
Court of Appeals
For the Ninth Circuit.

JAMES J. BENNETT,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Appeal from the District Court
for the District of Alaska,
Fourth Judicial Division

FILED

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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In the District Court for the District of Alaska,
Fourth Judicial Division
No. 1817 Cr.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FERN BENNETT, Also Known as BETTY Mc-
ALLISTER; NORMA RUTH CROSBY,
WESLEY KEHERT and JAMES J. BEN-
NETT, Also Known as JACK BENNETT,

Defendants.

INDICTMENT

Count I.

The Grand Jury charges in Count I of this In-
dictment:

That Fern Bennett, also known as Betty Mc-
Allister; Norma Ruth Crosby, Wesley Kehert and
James J. Bennett, also known as Jack Bennett, on
or about the 28th day of June, 1953, in the Fourth
Judicial Division, Territory of Alaska, then and
there being, did then and there feloniously trans-
port in interstate commerce, to wit, from the State
of Texas to the Territory of Alaska, a woman, to
wit, Marilyn Jean Casey, for the purpose of prosti-
tution, in violation of Title 18, Section 2421, of the
United States Code Annotated.

Count II.

The Grand Jury charges in Count II of this In-
dictment:

That Fern Bennett, also known as Betty McAllister; Norma Ruth Crosby, Wesley Kehert and James J. Bennett, also known as Jack Bennett, on or about the 28th day of June, 1953, in the Fourth Judicial Division, Territory of Alaska, then and there being, did then and there feloniously conspire to commit an offense against the United States, and did an act to effect the object of the conspiracy, to wit, transport in interstate commerce, to wit, from the State of Texas to the Territory of Alaska, in violation of Section 2421 of Title 18 of the United States Code Annotated, a woman, to wit, Marilyn Jean Casey, for the purpose of prostitution, in violation of Section 371 of Title 18 of the United States Code Annotated.

Dated at Fairbanks, Alaska, this 13th day of November, 1953.

A True Bill.

/s/ VIRGIL M. CADY,

Foreman of the Grand Jury.

/s/ THEODORE F. STEVENS,

United States Attorney.

Witnesses before the Grand Jury:

Edward J. Harkabus,

Marilyn Jean Casey.

Crime: Count I: Transportation of a woman for the purpose of prostitution.

Count II: Conspiracy.

Presented to the Court by the Foreman of the Grand Jury, in open Court, in the presence of the Grand Jury, and filed in the District Court, Territory of Alaska, Fourth Division.

[Endorsed]: Filed November 13, 1953.

[Title of District Court and Cause.]

VERDICT

We, the jury duly empaneled and sworn to try the above-entitled cause, do from the law and the evidence here find:

As to Count I of said Indictment:

(a) That defendant Fern Bennett, also known as Betty McAllister, is Not Guilty of the crime of feloniously transporting, in interstate commerce, a woman, to wit, Marilyn Jean Casey, for the purpose of prostitution as charged in Count I of said indictment in this case and in violation of Section 2421, T. 18, U. S. Code.

(b) That defendant Norma Ruth Crosby, is Not Guilty of the crime of feloniously transporting a woman, to wit, Marilyn Jean Casey, for the purpose of prostitution as charged in Count I of the indictment in this case.

(c) That defendant Wesley Kehert is Guilty of the crime of feloniously transporting a woman, to wit, Marilyn Jean Casey, for the purpose of prosti-

tution as charged in Count I of the indictment in this case.

(d) That defendant James J. Bennett, also known as Jack Bennett, is Guilty of the crime of feloniously transporting a woman, to wit, Marilyn Jean Casey, for the purpose of prostitution as charged in Count I of the indictment in this case.

As to the matters set forth in Count II of said indictment, we, the jury find:

(a) That two or more of said defendants, to wit Fern Bennett, Norma Ruth Crosby, Wesley Kehert and Jack Bennett are Not Guilty of the crime of conspiring to commit an offense against the United States as denounced by Section 371, T. 18, U. S. Code and Count II of said indictment herein.

(b) That one or more of said defendants, to wit, Fern Bennett, Norma Ruth Crosby, Wesley Kehert and Jack Bennett are Not Guilty of doing an act to effect the object of said conspiracy, to wit, actually transporting said Marilyn Jean Casey for the purpose of prostitution in interstate commerce between the State of Texas and the Territory of Alaska as charged in Count II of said indictment.

(c) That such of said defendants as have not been found guilty by virtue of the matters heretofore set forth as to Count I of the indictment herein in sub-paragraphs (a) to (d) of this Verdict are hereby found not guilty of the crime described in Count I of said indictment.

(d) That such of said defendants as have not been found guilty by virtue of the matters set forth as to Count II of the indictment herein in subparagraphs (a), (b) and (c), inclusive, of this verdict are hereby found not guilty of the crimes described in Count II of said indictment.

Done at Fairbanks, Alaska, this 16th day of May, 1954.

/s/ [Indistinguishable]
Foreman.

[Endorsed]: Filed and entered May 16, 1954.

[Title of District Court and Cause.]

MOTION FOR NEW TRIAL

Come Now James J. Bennett and Wesley Kehrt, two of the above-named defendants, and move this Court to grant them a new trial for the following reasons:

1. That the Court erred in denying defendants' Motion for Acquittal made at the close of plaintiff's case.
2. That the verdict is contrary to the weight of the evidence.
3. That the verdict is not supported by substantial evidence.
4. That the Court erred in overruling defendants' Motion to suppress evidence unlawfully seized.

5. That the Court erred in admitting testimony of Walter Brown, to which objections were made.

6. That the Court erred in charging the jury and in refusing to charge the jury as requested.

7. That the Court erred in admitting evidence which was incompetent, irrelevant and immaterial, and to which objection was made by defendants.

8. That the verdict was contrary to the law.

9. That the verdict of the jury was coerced in that the jury was required by the Court to deliberate an unreasonable length of time after the Court being informed by the jury that the jury was deadlocked.

/s/ WARREN A. TAYLOR,
Attorney for Defendants.

Receipt of Copy acknowledged.

[Endorsed]: Filed May 18, 1954.

[Title of District Court and Cause.]

ORDER AND SENTENCE

The Government was represented by Theodore F. Stevens, United States Attorney; defendant Bennett was present and represented by Warren A. Taylor.

Respective counsel presented argument on the defendant's motion for a new trial.

It was Ordered that the motion be denied.

This being the time for the passing of Sentence in this cause, the motion for a new trial having

been denied, Mr. Stevens presented a statement to the Court.

Mr. Taylor presented a statement in behalf of the defendant.

The defendant James J. Bennett waived any statement.

It was the sentence of the Court that defendant James J. Bennett be confined in an Institution of the penitentiary type for the period of five (5) years, said institution to be selected by the Attorney General of the United States; the Supersedeas Bond was set at \$25,000.00 and the defendant was released in the custody of his counsel pending the filing of the Supersedeas Bond as set above.

Entered May 25, 1954.

In the District Court for the District of Alaska,
Fourth Judicial Division

No. 1817 Cr.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY KEHRT, et al.,

Defendants.

JUDGMENT AND COMMITMENT

On this 28th day of May, 1954, came the attorney for the Government and the defendant, Wesley Kehrt, appeared in person and by counsel.

It Is Adjudged that the defendant, Wesley Kehrt, has been convicted upon his plea of not guilty and a verdict of guilty of the offense of Transportation of a Woman for the Purpose of Prostitution, as charged in Count I of the Indictment on file herein, and the Court having asked the said defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant, Wesley Kehrt, is guilty as charged and convicted.

It Is Adjudged that the defendant, Wesley Kehrt, is hereby committed to the custody of the Attorney General of his authorized representative for imprisonment for a period of five (5) years, such sentence to commence on the 28th day of May, 1954.

It Is Adjudged that the defendant, Wesley Kehrt, pay to the Clerk of the Court the sum of Five Thousand Dollars (\$5,000.00), assessed against him as a fine herein and that said defendant be imprisoned until the payment of said fine or until he is otherwise discharged as provided by law.

It Is Ordered that the Clerk deliver a certified copy of this Judgment and Commitment to the United States Marshal, or other qualified officer, and that the copy serve as the commitment of the defendant herein, and that said defendant pay the costs of this action in the sum of \$....., to be taxed by the Clerk of the Court.

Done at Fairbanks, Alaska, this 28th day of May, 1954.

/s/ HARRY E. PRATT,
District Judge.

The Court recommends commitment to: the Attorney General.

/s/ JOHN B. HALL,
Clerk.

[Endorsed]: Filed and entered May 29, 1954.

[Title of District Court and Cause.]

NOTICE OF APPEAL

The name and address of appellant is James J. Bennett, Anchorage, Alaska.

The name and address of appellant's attorney is Warren A. Taylor, 524½ Third Avenue, Fairbanks, Alaska.

The appellant was charged with transporting a woman for purposes of prostitution, in violation of Title 18, Section 2421 of the United States Code, Annotated, and the jury returned a verdict of guilty as charged in the indictment, and sentenced the defendant to 5 years in the penitentiary and/or fined \$ none.

The judgment of the above-entitled Court entered on the 25th day of May, 1954, adjudged that

the appellant had been convicted on a verdict of guilty of the crime of transporting in interstate commerce, to wit: From the State of Texas to the Territory of Alaska, a woman, to wit, Marilyn Jean Casey, for the purpose of prostitution.

On the 25th day of May, 1954, the above-entitled Court entered an Order denying appellant's Motion for a New Trial.

James J. Bennett, the above-named appellant, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the above-stated judgment and order.

Dated at Fairbanks, Alaska, this 25th day of May, 1954.

/s/ WARREN A. TAYLOR,
Attorney for Appellant.

Receipt of Copy acknowledged.

[Endorsed]: Filed May 25, 1954.

[Title of District Court and Cause.]

COUNTER AFFIDAVIT IN REGARD TO
MOTION TO SUPPRESS EVIDENCE

United States of America,
Territory of Alaska—ss.

I, Edward J. Harkabus, being first duly sworn on oath depose and say:

That on the 6th day of July, 1953, I was an

agent for the Federal Bureau of Investigation. That Agent John W. Worsham and myself served a duly-authorized Federal Warrant on Jack Bennett at Room 404 in the Fifth Avenue Hotel Annex after identifying ourselves as Bureau agents. That at the time we entered the aforesaid room, Theodore R. McRoberts, Acting United States Marshal, was there. That as a search incidental to this lawful arrest, Bennett and his effects were searched. We seized certain property under the control of Bennett, including a billfold and other property. Certain gas coupons found in this billfold have been retained as evidence relevant to the charge against him.

Dated at Fairbanks, Alaska, this 7th day of May, 1954.

/s/ EDWARD J. HARKABUS.

Subscribed and sworn to before me this 7th day of May, 1954.

/s/ OLGA T. STEGER,
Chief Deputy.

Receipt of Copy acknowledged.

[Endorsed]: Filed May 7, 1954.

[Title of District Court and Cause.]

COUNTER AFFIDAVIT IN REGARD TO
MOTION TO SUPPRESS EVIDENCE

United States of America,
Territory of Alaska—ss.

John W. Worsham, being first duly sworn on oath, deposes and says:

That I am an agent for the Federal Bureau of Investigation.

That upon the 6th day of July, 1953, while in the company of Edward Harkabus, also an agent for the Federal Bureau of Investigation on that date, your affiant conducted a search for one Jack Bennett because Agent Harkabus had in his possession a Federal warrant for the arrest of the said Bennett.

That your affiant received notice that said Bennett might be located at the Fifth Avenue Hotel Annex and proceeded to that place. That Agent Harkabus and myself found Jack Bennett at the Fifth Avenue Hotel Annex and arrested him pursuant to the warrant which was outstanding against him. That at the time Agent Harkabus and myself entered said Bennett's room, Acting United States Marshal Theodore R. McRoberts was present in the room.

That incidental to said arrest, pursuant to the warrant as aforesaid, Agent Harkabus and myself seized certain property of the said Bennett which

was connected with the offense with which he was charged, to wit, certain gas coupons and other property. This property was located in the room in which Mr. Bennett was found, which room was then under his control. At no time did I or anyone else in my presence pull or use a gun in connection with this arrest.

Dated at Fairbanks, Alaska, this 7th day of May, 1954.

/s/ JOHN W. WORSHAM.

Subscribed and sworn to before me this 7th day of May, 1954.

/s/ OLGA T. STEGER,
Chief Deputy.

Receipt of Copy acknowledged.

[Endorsed]: Filed May 7, 1954.

[Title of District Court and Cause.]

COUNTER AFFIDAVIT IN REGARD TO
MOTION TO SUPPRESS EVIDENCE

United States of America,
Territory of Alaska—ss.

I, Edward J. Harkabus, being first duly sworn on oath depose and say:

That on the 6th day of July, 1953, I was an agent for the Federal Bureau of Investigation. That Agent John W. Worsham, Acting United States

Marshal Theodore R. McRoberts, and myself served a duly-authorized Federal Warrant of arrest for Wesley Edward Kehrt at the "Transient Rooms" located on South Cushman Street.

That I had received information that Wesley Kehrt was armed and could be located at the aforementioned location.

That I knocked upon the door of Kehrt's room advising him that we were Federal Agents and had a warrant for his arrest. He opened the door and I covered him with my gun. That incidental to said arrest, pursuant to the aforesaid warrant, Agent Worsham and myself seized certain property in the possession of Kehrt.

That both Agent Worsham and myself had been informed that a camera, photographs and other evidence, property of one Marylian Jean Casey, the victim in instant case, were in the possession of said Kehrt, this evidence was seized incidental to the lawful arrest of Kehrt.

Dated at Fairbanks, Alaska, this 7th day of May, 1954.

/s/ EDWARD J. HARKABUS.

Subscribed and sworn to before me this 7th day of May, 1954.

/s/ OLGA T. STEGER,
Chief Deputy.

Receipt of Copy acknowledged.

[Endorsed]: Filed May 7, 1954.

[Title of District Court and Cause.]

AFFIDAVIT

United States of America,
Territory of Alaska—ss.

Theodore R. McRoberts, being first duly sworn on oath deposes and says:

That on the 6th day of July, 1953, I had a warrant issued under the Territorial law for the arrest of Norma Ruth Crosby and Carol Ward. That I went to the Fifth Avenue Hotel Annex and arrested said two defendants. That Lieutenant Trafton, of the Department of Territorial Police, accompanied me at the time of said arrest.

That at the time we arrested said two individuals, Jack Bennett was in their company. At that time I did not have a warrant for his arrest and did not know there was a warrant outstanding for his arrest. Said Jack Bennett voluntarily accompanied Lt. Trafton and myself and the girls to the Federal Jail at his own request. He was not placed under arrest.

After the two girls had been booked, Mr. Bennett asked me to return him to the Fifth Avenue Hotel Annex. I notified Agent Harkabus that I was in the company of Mr. Bennett and that I would return him to his room at the said hotel, and at that time Agent Harkabus told me they were going to attempt to obtain a warrant for Bennett's arrest on the charge of Interstate Transportation of a Woman

for Prostitution. I returned to the hotel with Bennett and was talking with him in his room concerning the activities of the two girls when Agent Harkabus and Agent Worsham, of the Federal Bureau of Investigation, came to the room and announced they had a Federal warrant for the arrest of the said Bennett. I personally witnessed the search of Bennett's room. I know that the search conducted was a search incidental to the lawful arrest and was confined to the room then under Mr. Bennett's control.

Dated at Fairbanks, Alaska, this 7th day of May, 1954.

/s/ THEODORE R. McROBERTS.

Subscribed and sworn to before me this 7th day of May, 1954.

[Seal] /s/ WALLIS C. DROZ,
Notary in and for the
Territory of Alaska.

My commission expires 4-16-58.

Receipt of Copy acknowledged.

[Endorsed]: Filed May 7, 1954.

[Title of District Court and Cause.]

COUNTER AFFIDAVIT IN REGARD TO
MOTION TO SUPPRESS EVIDENCE

United States of America,
Territory of Alaska—ss.

John W. Worsham, being first duly sworn on oath, deposes and says:

That I am an agent for the Federal Bureau of Investigation.

That upon the 6th day of July, 1953, while in the company of Edward Harkabus, also an agent for the Federal Bureau of Investigation on that date, your affiant conducted a search for one Wesley Kehrt because Agent Harkabus had in his possession a Federal Warrant for the arrest of the said Kehrt.

That Agent Harkabus and myself found Wesley Kehrt at the Transient Rooms and arrested him pursuant to the warrant which was outstanding against him.

That incidental to said arrest, pursuant to the warrant as aforesaid, Agent Harkabus and myself seized certain property in the possession of the said Kehrt.

That Agent Harkabus and myself were informed and believed at that time that a camera and certain photographs, taken from the possession of the said Kehrt, were the property of one Marylian Jean Casey, the victim herein. That said Marylian Jean Casey had told us these articles and other personal

articles, such as clothing, were her personal property and that at the time of said arrest, said Marylian Jean Casey had informed us she was residing in the Transient Rooms in the same room with the said Wesley Kehrt.

Dated at Fairbanks, Alaska, this 7th day of May, 1954.

/s/ JOHN W. WORSHAM.

Subscribed and sworn to before me this 7th day of May, 1954.

[Seal] /s/ OLGA T. STEGER,
Chief Deputy.

Receipt of Copy acknowledged.

[Endorsed]: Filed May 7, 1954.

[Title of District Court and Cause.]

DEFENDANTS' REQUESTED
INSTRUCTIONS

No. One

You are instructed that "If an interstate journey was planned with no immoral purpose at the time, no crime was committed, since immoral relations, standing alone, unconnected with interstate commerce, does not violate Federal statute."

U. S. v. Grace,
73 F. 2d, 294.

No. Two

You are further instructed that, "If the sole purpose of interstate journey with a woman or girl is

legitimate, a purely incidental intent to have intercourse en route is not a Federal offense.”

Long vs. U. S.,
160 F. 2d, 706.

No. Three

You are instructed that, “The mere commission of an immoral act by defendant while on an interstate journey with a woman for a lawful purpose does not, where the immorality was merely casual, constitute a violation of the White Slave Act.”

Biggerstaff vs. U. S.,
260 F. 926.

No. Four

You are instructed that, “Under a statute condemning transportation of a female in interstate commerce for immoral purpose, the prospect of sexual relations must have some relation to and be one of the reasons or purposes of the trip; but if the sole purpose is legitimate, purely incidental intent to have intercourse is not a Federal offense.”

Yoder vs. U. S.,
80 F. 2d, 665.

No. Five

You are instructed that if you believe from the evidence that Marylin Jean Casey requested the defendants to transport her to the Territory of Alaska and the defendants did so transport her without knowledge that she intended to engage in prostitu-

tion, then the evidence would be insufficient to convict the defendants or either of them.

Thom vs. U. S.,
278 F. 933.

No. Six

You are instructed that in a prosecution for transporting a woman on interstate commerce for immoral purposes, the prosecution must have evidence other than the written statement of witness prior to trial and during trial. The written statement in itself is insufficient to sustain a verdict of guilty.

U. S. vs. Biener,
52 F. Supp. 54.

No. Seven

You are instructed that, "It is the inducement and transportation, not the subsequent conduct, which constitutes an offense under the White Slave Act."

Shama vs. U. S.,
94 F. 2d 1.

No. Eight

You are instructed that, "An immoral purpose first conceived at the end of a journey is not sufficient to sustain a conviction under the White Slave Act."

Shama vs. U. S.,
94 F. 2d 1.

/s/ WARREN A. TAYLOR,
Attorney for Defendants.

In the District Court for the District of Alaska,
Fourth Judicial Division

No. 1817 Cr.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FERN BENNETT, Also Known as BETTY Mc-
ALLISTER; NORMA RUTH CROSBY,
WESLEY KEHERT, and JAMES J. BEN-
NETT, Also Known as JACK BENNETT,

Defendants.

TRANSCRIPT OF PROCEEDINGS

Appearances:

THEODORE F. STEVENS,

United States Attorney of Fairbanks,
Alaska, and

GEORGE M. YEAGER,

Assistant U. S. Attorney, of Fairbanks,
Alaska,

Attorneys for Plaintiff.

WARREN A. TAYLOR,

Of Fairbanks, Alaska,

Attorney for Defendant.

Dates: May 10, 11, 12, 13, and 14, 1954.

Place: Fairbanks, Alaska.

Before: Hon. Harry E. Pratt, District Judge, and Jury.

Be It Remembered, that at 10:00 a.m., upon the 10th day of May, 1954, the trial of this cause, No. 1817, Criminal, was begun, plaintiff and defendants represented by counsel, the Honorable Harry E. Pratt, District Judge, presiding.

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll of the jury.)

The Clerk: They are all present, your Honor.

(At this time, Mr. Stevens made a brief statement to the veniremen and Mr. Taylor and Mr. Stevens proceeded to impanel a jury.)

(A jury was duly impaneled and sworn to try the above-named cause.)

The Court: Upon adjournment the jurors not engaged in the trial of this cause will be excused until Thursday morning at ten o'clock. We will take a ten-minute recess.

(Thereupon, at 2:50 p.m., the court took a recess until 3:00 p.m., at which time it reconvened and the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor. Call Marilyn Jean Casey.

The Court: You care to make your opening statement?

Mr. Stevens: Oh, I beg your pardon, your Honor. I'm sorry. [1*]

(Mr. Stevens presented his opening statement to the jury.)

(Mr. Taylor presented his opening statement to the jury.)

The Court: Call your first witness.

Mr. Stevens: Now, I call Miss Casey, your Honor.

Mr. Taylor: If the Court please, we would like to invoke the rule that all witnesses that are not testifying remain outdoors.

The Court: All witnesses and persons who expect to be called as witnesses will remain out of the courtroom until they are called to testify.

MARILYN JEAN CASEY

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Mr. Stevens: Miss Casey, if you will hold that up and speak right into it, please.

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Marilyn Jean Casey.

Q. How old are you?

*Page numbering appearing at top of page of original Reporter's Transcript of Record.

(Testimony of Marilyn Jean Casey.)

A. Twenty-one, born June 17, 1932.

Q. Where do you reside now?

A. My present residence now is 713 Tenth Street, Fairbanks, Alaska. [2]

Q. Where did you live prior to coming to Alaska?

A. Galveston, Texas.

Q. And what did you do in Galveston, Texas?

A. I was a bartender at the Club 16 on Sixteenth and Strand.

Q. Do you know a man named Senseney in Galveston? A. I did.

Q. Do you know Wesley Kehert? A. I do.

Q. Where did you meet Wesley Kehert?

A. I met Wesley Kehert in Galveston approximately, oh, I don't know, eight, nine months.

Q. Before you came to Alaska?

A. Yes, that's right.

Q. When was the last time you were in Galveston? A. Oh, approximately June 27, '53.

Q. In June of 1953? A. That's right.

Q. Where did you meet Wesley Kehert?

A. Well, the first time I met Wesley Kehert was at a party some friends of mine were giving. He was invited.

Q. Did you see Wesley Kehert prior to the time you left Galveston? A. Oh, yes, several times.

Q. Who did you leave Galveston with?

A. Wesley Kehert. [3]

Q. And where did you meet him when you left?

A. Well, do you mean where did we leave from, what street?

(Testimony of Marilyn Jean Casey.)

A. Yes, where in particular did you meet him when you left Galveston?

A. Down where I was staying. He came down.

Q. Where were you staying at that time?

A. Above the 16 Club, at Sixteenth and Strand.

Q. Where did you go from Galveston?

A. We went to Odessa, Texas.

Q. How did you go to Odessa?

A. In a car.

Q. Whose car was it? A. Wes's.

Q. What type of car was it?

A. 1953 Roadmaster Buick.

Q. What type of license plates did it have?

A. Indiana, I believe.

Q. Do you know the defendant Bennett?

A. Yes, I know him.

Q. Where did you meet him?

A. I met him at Galveston.

Q. When did you meet him?

A. Same time I met Wesley Kehert.

Q. Did Mr. Bennett travel with you and Mr. Kehert from Galveston to Odessa, Texas? [4]

A. Yes, he did.

Q. How long had Mr. Bennett been in Galveston before you left Galveston; do you know?

A. No, I don't.

Q. Had he been there several days before you left?

A. He had been there for quite a while.

Q. Do you know Fern Bennett?

A. Oh, yes.

(Testimony of Marilyn Jean Casey.)

Q. How long have you known Fern Bennett?

A. Approximately a year, a year and a half.

Q. Where did you meet Fern Bennett?

A. Oh, well, I met her through friends of mine, but I can't remember the exact place. I have known her for quite a while.

Q. Do you know what she was doing before she came to Alaska?

A. Gee, I don't know. Her husband was working.

Q. Where were they living?

A. Whenever I met them?

Q. Yes.

A. They were living in the fourth district, Houston, I believe, around there, third or fourth, one.

Q. Did you know Norma Crosby? A. Yes.

Q. Where did you meet Norma Crosby?

A. Met her in Galveston. [5]

Q. When did you meet her?

A. Oh, about a year ago, I guess.

Q. Do you know what she was doing prior to the time she came to Alaska?

A. No. I believe she was a waitress.

Q. Did you see her? Where was she a waitress?

A. I don't know.

Q. Where did you go to in Odessa, Texas?

A. Oh, went by where they were living.

Q. Where who was living?

A. Where Bennett and Fern was living.

Q. I thought you just said that Mr. Bennett and Mrs. Bennett were living in Galveston?

(Testimony of Marilyn Jean Casey.)

A. They were, but they moved to Odessa.

Q. And did you testify that Mr. Bennett and Mr. Kehert were with you when you went to Odessa?

A. I did.

Q. And who was at the place where you went in Odessa; whom did you join in Odessa?

A. Well, like I told you, he stopped by to get his wife.

Q. And where was that?

A. Well, some place they was living. I don't know where it was.

Q. What type of a place was it?

A. It was a motel. [6]

Q. Was there anyone there besides the four defendants?

A. Oh, Mr. Bennett's father and mother lived at the same place.

Q. How did you leave this motel?

A. In cars.

Q. Which car did you leave in?

A. With Wesley.

Q. In which car? A. Buick.

Q. And how did Mrs. Bennett leave the motel?

A. In his car?

Q. Which car? A. Cadillac.

Q. Whose car is that, Mr. Bennett's car?

A. Mr. Bennett's car.

Q. And how did Miss Crosby leave?

A. I don't remember. I believe she went in Bennett's car, I believe.

Q. Didn't Mr. Bennett accompany you?

(Testimony of Marilyn Jean Casey.)

A. He did not.

Q. When did you leave Odessa?

A. Approximately the 28th or 29th of June.

Q. Are you positive of that date?

A. No, I am not.

Q. And were you in the car with Mr. Kehert when you left Odessa? A. Yes, I was. [7]

Q. How far did you travel with Mr. Kehert?

A. Oh, gee, I don't know, until I got tired of his company.

Q. And you said that Miss Crosby was in a Mercury?

A. I haven't said anything about a Mercury.

Q. I beg your pardon; what kind of a car was Miss Crosby in? A. In a Cadillac.

Q. Whose Cadillac was that?

A. Bennett's.

Q. I thought you said that Mr. Bennett was with Mrs. Bennett?

A. Both of them was in the car.

Q. Was there not a third car?

A. There was.

Q. Who was driving that? A. Carroll.

Q. Carroll who?

A. I don't know her last name.

Q. What type of license plate did Jack Bennett's car have? A. Texas.

Q. Do you know the number of it, by any chance?

A. No, I don't.

Q. What was the other car; you have described a Buick and a Cadillac? [8] A. A Mercury.

(Testimony of Marilyn Jean Casey.)

Q. What color was it?

A. Red with a cream top.

Q. What kind of a license plate was on that?

A. Texas.

Q. Do you know who owned that car?

A. I do.

Q. Who owned it? A. Mr. Bennett.

Q. Do you know who owned the Cadillac?

A. Mr. Bennett.

Q. By Mr. Bennett, do you mean the defendant,
or Mr. Bennett's father?

A. I mean the defendant.

Q. Do you know who owned the Buick?

A. Wesley Kehert.

Q. Now, who did you drive with after you got
tired of riding with Mr. Kehert?

A. Carroll, I believe.

Q. How long were you in Odessa, Texas?

A. Oh, approximately twenty-four hours.

Q. Did you leave in daytime?

A. No, because we didn't get in there until late
one afternoon.

Q. What time of day or night did you leave?

A. It was approximately 4:30 one morning. [9]

Q. Was there any reason why you left that
early? A. None that I know of.

Q. Did you go through Denver, Colorado?

A. Yes, we did.

Q. Did you stop in Denver, Colorado?

A. Yes.

(Testimony of Marilyn Jean Casey.)

Q. Where did you, yourself, stop?

A. At the Westward Ho Motel.

Q. Who did you stay there with?

A. Who did I stay with?

Q. That's right. Who was with you at that motel? A. Mr. Kehert.

Q. Where in particular did you stay at that motel? A. Me?

Q. Where did you stay?

A. Well, I guess I stayed in the room.

Q. And who stayed in the room with you?

A. Well, Mr. Kehert.

Q. And how did you register at that motel?

A. I don't know. I didn't sign the register.

Q. Who registered?

A. Mr. Kehert, I guess.

Q. Who paid the bill? A. I paid half.

Q. Who did you pay half to?

A. I gave it to him to pay to the motel [10]
owner.

Q. Did you, yourself, offer to pay the motel owner? A. I did.

Q. Yes?

A. I didn't go in the office. I was getting the luggage out of the car.

Q. And Mr. Kehert paid the motel?

A. Yes, but I gave him half.

Q. Do you know where the others stayed?

A. No, I don't.

Q. Did you ever go to the Royal Motel in Denver? A. Did I ever go to a motel?

(Testimony of Marilyn Jean Casey.)

Q. Yes. A. No, I never did go there.

Q. Do you know where the Western Union office is in Denver?

A. Oh, yes, I have been by the Western Union office; never been in it; don't know what street it is on.

Q. Did you go to the Western Union office with any of the defendants while you were in Denver?

A. In front of it, yes.

Q. Whom did you go with?

A. Mr. Kehert.

Q. Do you know for what purpose Mr. Kehert went to the Western Union office?

A. Well, he needed some money. He sent home for it.

Q. Did he receive some money in Denver?

A. Well, as far as I know he did, but you would have to ask him. I wouldn't say for sure. [11]

Q. Do you know what Mr. Kehert did with this money?

A. Well, I imagine he was getting kind of low on funds and needed some more, so he sent and got it.

Q. Do you know whether Mr. Kehert sent the money himself?

A. Well, as far as I know he did. I didn't borrow any from him.

Q. Do you know whether or not he gave any part of that money to any other person?

A. I don't think he gave it to them.

(Testimony of Marilyn Jean Casey.)

Q. Do you know whether he paid any of that money to Mr. Bennett?

A. He might have let him borrow some.

Q. Do you know of your own knowledge whether or not he did?

A. No, not of my own knowledge. I don't know.

Q. How long did you stay in Denver?

A. Oh, a day and a night.

Q. And did you stay in the same motel?

A. No.

Q. Did you stay somewhere else, Miss Casey?

A. I just told you that I stayed at the Westward Ho Motel.

Q. But you didn't let me finish my question. Did you stay at the same hotel the whole time you were there?

A. Yes. [12]

Q. Did you go with Mr. Kehert or Mr. Bennett to a service station while you were there in Denver?

A. The only service station I went to in Denver was to have the car serviced before we left.

Q. And do you know what the name of that station was?

A. I have no idea.

Q. Did you go alone with either Mr. Kehert or Mr. Bennett to that service station?

A. No.

Q. Who was with you when you went to that service station?

A. Well, we was all there.

Q. And which car did you go to the service station in?

A. In the Buick.

Q. Did you travel in the Buick the whole time, Miss Casey?

A. You mean all the way up here?

(Testimony of Marilyn Jean Casey.)

Q. Yes. A. No.

Q. Did you travel in any other car other than the Buick? A. Yes.

Q. While you were in Denver?

A. Not in Denver, no.

Q. When you left Denver, what route did you take?

A. I don't know what highway it was. [13]

Q. Which towns did you go through; do you remember?

A. Oh, Cheyenne, Wyoming, and Spokane, Washington.

Q. Did you stay in Spokane? A. Yes.

Q. Do you know where you stayed?

A. No, I don't.

Q. With whom did you stay in Spokane?

A. Wesley Kehert.

Q. And were you staying in the same room with him? A. That's right.

Q. Did you stay in the same bed with him?

A. Did I? No, there was two beds in the room.

Q. Who was in the car when you drove from Denver to Spokane? A. Wesley Kehert.

Q. Did you travel in any other car other than Wesley Kehert's car from Denver to Spokane?

A. No, I did not.

Q. Where did you go from Spokane?

A. Over in Canada.

Q. Who were you with when you went from Spokane into Canada?

A. I was with Carroll in the Mercury.

(Testimony of Marilyn Jean Casey.)

Q. Who else was in that car?

A. Just the girls.

Q. By the girls, who do you mean? [14]

A. Fern, Norma, myself and Carroll.

Q. On the way from Spokane to the Canadian border, did you have a conversation with these girls, these two defendants concerning your trip?

Mr. Taylor: Just a moment, your Honor. We are going to object until the proper foundation is laid as to the time and place and who were present, show if it was in the presence of the defendant or either one of them.

Mr. Stevens: Just a preliminary question as to whether or not she had a conversation.

The Court: Objection overruled.

Q. (By Mr. Stevens): Did you have a conversation with the two women who are the defendants on the way from Spokane to the Canadian border?

A. The only conversation we had was about the weather and scenery.

Q. Just answer the question; did you have a conversation with them?

A. Well, naturally.

Q. And who was in the car at the time?

A. The four of us.

Q. Do you remember what time of day it was?

A. No, I don't.

Q. What time did you leave Spokane?

A. It was early in the morning, about nine o'clock. [15]

Q. And there were the four of you in the car?

(Testimony of Marilyn Jean Casey.)

A. That's right.

Q. Now, during that trip, did you discuss prostitution at any time?

A. Prostitution was never discussed any time.

Q. But you say that you drove to the border in the Mercury? A. That's right.

Q. And where was Mr. Kehert?

A. He was in the Buick.

Q. And who was with Mr. Kehert?

A. No one.

Q. And where was Mr. Benett?

A. In the Cadillac.

Q. And who was with Mr. Bennett?

A. No one.

Q. Did some one of the party own a dog?

A. Yes.

Q. Who was it that owned a dog?

A. Fern Bennett.

Q. And how many dogs were there?

A. Three.

Q. And who had the dogs?

A. They were in the Mercury.

Q. And all three dogs were in the Mercury?

A. That's right. [16]

Q. When you crossed the border?

A. That's right.

Q. Who paid for the gas on the trip through the states to the Canadian border?

A. Who paid for it?

Q. Yes.

(Testimony of Marilyn Jean Casey.)

A. Well, I paid my part; as far as I know everyone else did.

Q. Miss Casey, just answer the question, please. To whom did you pay your part?

A. Wesley Kehert.

Q. And when did you pay him?

A. As soon as it was filled and find out what the price was.

Q. And did Mr. Kehert pay for the gas with cash?

A. Part of the time, through the states.

Q. Did Mr. Bennett ever use his credit card or his father's credit card to pay for gas in the car in which you were driving?

A. Well, yes.

Q. Did you pay Mr. Bennet?

A. No.

Q. Did you pay Mr. Kehert?

A. I did.

Q. And did you pay him each time, Miss Casey?

A. I did. [17]

Q. And what about the time when you were riding with the girls between Spokane and the border, whom did you pay then?

A. There was no gas put in the car then.

Q. There was no gas put in the car through Washington?

A. No, there was not.

Q. Did you pass through Orville, Washington, Miss Casey?

A. I don't remember the name. I don't believe.

Q. But you are positive there was no gas bought for the car in which you were driving between Spokane and the Canadian border?

A. No, I'm not positive.

(Testimony of Marilyn Jean Casey.)

Q. Well, if there had been, Miss Casey, who did you pay for your part of the gas?

A. Well, anytime—— (Interrupted.)

Mr. Taylor: Just a moment, Miss Casey. I am going to object upon the grounds that the question is leading and suggestive and also in the nature of cross-examination. This is the government's own witness, your Honor. I have felt a little hesitant about interrupting her, but I think the District Attorney has gone far enough on his leading questions.

The Court: Objection is overruled.

Q. (By Mr. Stevens): Who was driving when you crossed over into Canada? [18] A. I was.

Q. You were driving the car?

A. Yes, I was.

Q. Were you driving the car when you got to the immigration station?

A. You mean where they stopped you?

Q. Yes. A. Yes, I was.

Q. And did you drive the car after you left the immigration station? A. Yes, I did.

Q. How far did you drive that car?

A. Approximately one hundred fifty, two hundred miles.

Q. Did you stop at any place just a few miles past the border to join up with the other cars?

A. No, we had no reason.

Q. When did you cross the Canadian-Alaskan line; do you know, Miss Casey?

A. Approximately June 29th.

(Testimony of Marilyn Jean Casey.)

Q. And what car were you in when you crossed this line? A. Mercury

Q. And who was driving that car?

A. I was.

Q. And were you driving when you came to the American immigration station at Tok?

A. Yes, I was. [19]

Q. And who was with you in that car?

A. Fern, Norma and Carroll.

Q. The four women? A. That's right.

Q. And where was Mr. Bennett?

A. In the Cadillac.

Q. And where was he in relation to you; was he ahead of you or behind you?

A. Well, the cars went through. He went through and then we went through and then Wes came through.

Q. And going back to the American-Canadian border, do you remember the town at which you went through Canadian immigration?

A. No, I don't.

Q. Who went across that border first?

Mr. Taylor: If the Court please, we are going to object, incompetent, irrelevant and immaterial, can't see where that has any bearing upon the issues.

The Court: Objection overruled.

Q. (By Mr. Stevens): The question is, Miss Casey, who in relation to the automobiles went across first? A. I don't remember.

Q. You stated that Mr. Bennett was driving the

(Testimony of Marilyn Jean Casey.)

Cadillac, Mr. Kehert was driving the Buick and you were driving the Mercury?

A. That's right. [20]

Q. Could you tell us the order in which those cars crossed the Canadian-American border?

A. I don't want to say because I'm not sure.

Q. Did you when you passed through the Canadian-Alaskan border drive the Mercury through?

A. I did.

Q. And did the car in which you were riding stop at Tok Junction? A. It did.

Q. And who was registered as the driver of the car at Tok Junction? A. I was.

Q. Did you drive in the Mercury all the way through Canada?

A. Oh, majority of the way, yes.

Q. With whom did you ride when you were not in the Mercury? A. Wesley Kehert.

Q. Did you ever ride with Mr. Bennett?

A. No, I never did.

Q. When did you get to Fairbanks?

A. June the 30th.

Q. And where did you go when you got to Fairbanks; where did you stay?

A. Transient Rooms.

Q. Did you stay in Fairbanks permanently at that time? [21] A. What do you mean?

Q. You got to Fairbanks I believe you said on the 30th of June? A. Yes, that's right.

Q. Did you stay in Fairbanks at that time?

A. Why, yes.

(Testimony of Marilyn Jean Casey.)

Q. And how long after you got here did you stay here? A. Well, until July the 4th.

Q. Did you accompany any of the defendants back to the 40 Mile roadhouse?

A. Oh, we took a drive down there one evening.

Q. Did you stay down there? A. Yes.

Q. How long did you stay down there?

A. One night.

Q. And when you returned, where did you stay?

A. Transient Rooms.

Q. And who else stayed at the Transient Rooms with you? A. Wesley Kehert.

Q. In what room did you stay?

A. I don't remember the number.

Q. Were you staying in the same room that Mr. Kehert was staying in? A. That's right.

Q. And at that time were you sleeping in the same bed that Mr. Kehert was sleeping in? [22]

A. That's right.

Q. And did you engage in any act of sexual intercourse with Mr. Kehert? A. We did not.

Q. Do you know Vern Murphy? A. I do.

Q. Where did you meet Vern Murphy?

A. While I was dancing at the Squadron Club.

Q. Did you see Mr. Murphy at any time immediately after you came to Fairbanks?

A. I did not.

Q. Did you ever stay in a place owned by Mr. Murphy? A. I did.

Q. And what place was that?

(Testimony of Marilyn Jean Casey.)

A. Cabin Number 12 at the Motel. He owns the Trail's End.

Q. And who rented that Cabin Number 12?

A. Who rented it?

Q. Yes. A. Mr. Kehert.

Q. And from whom did he rent the cabin?

A. I don't know. Mr. Murphy, I guess.

Q. Do you know what the price, the rent of the cabin was? A. I have no idea.

Q. And did you stay in that cabin?

A. I did. [23]

Q. I thought you just testified that you stayed in the Transient Rooms, Miss Casey?

A. If you will give me a chance, I will tell you why.

Q. Were you staying in the same place at both times, Miss Casey?

A. No, I stayed in the Transient Rooms the first time, the two nights in Fairbanks, and Mr. Kehert and I had a fuss and that's why he rented me the cabin, so I could move out.

Q. When you went to the Transient Rooms, did you engage in any acts of prostitution in those rooms? A. I did not.

Q. Have you entered into acts of prostitution since you have been in Fairbanks? A. I have.

Q. How soon after you arrived in Fairbanks did you enter into acts of prostitution?

A. About three days.

Q. And where was that?

A. Trail's End Motel.

(Testimony of Marilyn Jean Casey.)

Q. I thought you just said you never entered such an act there?

A. You said Transient Rooms.

Q. I beg your pardon, I meant the Trail's End Motel?

A. Well, you said Trail's End Motel.

Q. What did you do with the money you gained by this practice? [24] A. I kept it.

Q. Did you give any part of that money to either of the defendants? A. I did not.

Q. Who paid for your room rent out there?

A. Well, I paid for it.

Q. I thought you just said Mr. Kehert paid for it? A. He paid for the first two nights.

Q. Did Mr. Bennett come down to see you at that Trail's End Motel? A. He never did.

Q. Were you using a car at the time you were living at the Trail's End Motel?

A. Yes, I had a car.

Q. Which car were you using?

A. I had the Buick.

Q. Mr. Kehert's Buick? A. Yes.

Q. Where were the others living, the other people who came to Alaska with you?

A. I don't know. Fifth Avenue I think they were staying.

Q. The Fifth Avenue Hotel?

A. I believe so.

The Clerk: Government's Identification No. 1; Government's Identification No. 2; Government's Identification No. 3. [25]

(Testimony of Marilyn Jean Casey.)

(Three (3) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 1, 2, and 3, respectively.)

Mr. Stevens: If we may, your Honor, there are quite a few. May the Clerk mark these as we continue.

The Court: Very well.

Mr. Stevens: Would you like to see these, Mr. Taylor?

Mr. Taylor: Yes, I sure would.

The Clerk: Government's Identification No. 4; No. 5; No. 6; and No. 7.

(Four (4) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification No. 4, 5, 6, and 7, respectively.)

Q. (By Mr. Stevens): Miss Casey, these are Government's Identifications 1, 2, 3, and 4. Would you look at those, please. Will you tell us what these are, please?

Mr. Taylor: Just a moment, your Honor. We are going to object to any testimony regarding these pictures until the proper foundation has been laid for the introduction of them.

The Court: Objection overruled.

Q. (By Mr. Stevens): Will you tell us what these are, please? A. They are pictures. [26]

Q. Do you know who took these pictures?

(Testimony of Marilyn Jean Casey.)

A. Well, all of us took some of them.

Q. Whose camera was used to take these pictures?

A. Oh, excuse me. We bought a little camera, a little Brownie camera.

Q. Was that your camera, Miss Casey?

A. It was, yes.

Q. And where did you buy that camera; do you remember?

A. I don't remember the name of the town, but it was a very small place.

Q. In what state?

A. In Washington before I crossed the Canadian—bought it at a drug store, paid \$2.49 for it, I believe it was.

Q. It was your camera? A. Yes, it was.

Q. After you got to Alaska did you still have that camera in your possession?

A. It was still with my things that I hadn't moved, I believe, at the Transient Rooms.

Q. And was that the same room that you testified you were sharing with Mr. Kehert?

A. That's right.

Q. And did you have photographs there in the room with you?

A. I only had one photograph.

Q. Did you have film that had been taken on the way up? [27] A. That's right.

Q. And was that film in the room in the Transient Rooms with the camera?

A. I believe it was, yes.

(Testimony of Marilyn Jean Casey.)

Q. Now, if you will take these pictures in order. Will you tell us if you remember who took those pictures?

A. Well, the first one I have here is this one of Bennett, Mr. and Mrs. Bennett. I took that one. The second picture I have here is of Norma Crosby. I also took that. The third picture I have here is of me and Mr. Kehert, and I believe I had Mrs. Bennett to take that one, and I have one here of Mr. Kehert, Carroll and Mrs. Bennett, and I took that one.

Q. Now, do these pictures show the automobiles in which the group was traveling?

A. It shows some of them.

Mr. Taylor: Miss Casey, don't answer that question until the objection is made. I object, your Honor, because they have not been introduced in evidence. They have only been identified to a certain extent. If they make further examination as to when and where they were taken should not be indulged in until such time as they have been admitted in evidence.

The Court: Objection overruled.

Q. (By Mr. Stevens): This is Identification 5, 6, and 7, Miss Casey. Would you tell us what those are? [28]

A. Well, this one——

Q. More of the same pictures?

A. Yes, that's right.

Q. And who are in those pictures and who took them, if you please?

(Testimony of Marilyn Jean Casey.)

A. This is a picture of myself, myself, Miss Crosby, Carroll, Mr. Kehert, and I believe I had Mrs. Bennett take this picture. This one is a picture of Mr. Kehert, Miss Crosby and Carroll and Mrs. Bennett. I snapped this one. This is a picture of Miss Crosby, Miss Carroll, myself and Mrs. Bennett. I believe that Wesley took that one.

(Three (3) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 8, 9, and 10, respectively.)

Mr. Stevens: Did you see the rest of these, Mr. Taylor? Would you like to see them?

Q. (By Mr. Stevens): This is Government's Identification 8, 9 and 10. Would you identify those for us, please?

A. Yes, this is a picture of Mr. Bennett. I took that. I have here a picture of Carroll, Mrs. Bennett and Miss Crosby. I also took that. I have here a picture of Wesley Kehert. I took that one also.

Q. And are these a part of the same set of pictures?

A. Yes, they are. I took approximately four rolls of them, I believe. [29]

(Two (2) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 11 and 12, respectively.)

Q. (By Mr. Stevens): Will you identify Government's Identification 10 and 11, please?

(Testimony of Marilyn Jean Casey.)

A. I have here a picture of myself. I believe that Mrs. Bennett took that one. This picture of the town and this man walking across the street, I took that one myself.

(Two (2) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 13 and 14, respectively.)

Q. (By Mr. Stevens): This is Government's Identification 13 and 14. Would you identify those, please?

A. Yes, this is a picture of Mr. Kehert and Mr. Bennett and an iceman. I took that picture and this is a picture of Mr. Bennett and Mr. Kehert. I took that also.

(Three (3) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 15, 16, and 17, respectively.)

Q. (By Mr. Stevens): This is Government's Identification 15, 16 and 17, Miss Casey. Would you identify those pictures for us, please?

A. This is a picture of Miss Crosby and Mr. Bennett. [30]

Q. Can you identify those pictures as part of the same group of pictures? A. Yes, I can.

Q. And were those pictures also taken on the trip coming up here?

A. Yes, they were, and here is a picture of a

(Testimony of Marilyn Jean Casey.)

bridge that was broken. They were repairing this bridge and I took this picture. This picture of myself here, Mr. Kehert took this.

(Two (2) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 18 and 19, respectively.)

Q. (By Mr. Stevens): Government's Identification 18 and 19. Would you identify those also, please?

A. This picture here of Mrs. Bennett and Mr. Kehert, I took that, and I have here a picture of Carroll, Mrs. Bennett and Miss Crosby and Mr. Bennett. I took this.

(Three (3) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 20, 21, and 22, respectively.)

Q. (By Mr. Stevens): This is Government's Identification 20. Would you identify that, too, please?

A. That is Carroll and Miss Crosby. I took this picture also. [31]

Q. That is Government's Identification 21, I believe, is it not?

A. Yes. This is a picture of the part of the machinery that was repairing this bridge that was broken. I took this picture.

Q. This is Government's Identification 22?

(Testimony of Marilyn Jean Casey.)

A. This is also part of the equipment. This is where they were driving a, oh, a piece of wood down this bridge, and I took this picture also.

Q. Did you take those pictures?

A. Yes, I did.

(Three (3) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 23, 24 and 25, respectively.)

Q. (By Mr. Stevens): And this is Government's Identification 23. Was this taken at the same location as the last two you have in your hand?

A. Yes, it was.

Q. Who is that a picture of?

A. That is a picture of myself.

Q. Who took that picture?

A. Mr. Kehert.

Q. Was that taken with the same camera?

A. Yes.

Q. On the same trip? [32] A. Yes.

Q. Government's Identification 24 and 25, Miss Casey?

A. This is just as they got the bridge repaired. I snapped a picture of that. Just as they got enough room for a car to go through and this is a picture I took of the sign as it says Alaska, as you leave Canada and come into Alaska.

Q. Was that picture taken while the car was moving, Miss Casey?

(Testimony of Marilyn Jean Casey.)

A. This one? No, I stopped and got out of the car and took it.

(Two (2) snapshot photographs taken on trip from Texas to Alaska were marked Government's Identification Nos. 26 and 27, respectively.)

Q. (By Mr. Stevens): This is Government's Identification 26 and 27, Miss Casey?

A. Yes, this is a picture of myself that was taken at the same bridge. This is another picture of myself taken at the very same place.

Q. With the same camera?

A. Yes, it was.

Q. On the same trip? A. Yes.

Q. Whose camera was it? A. It was mine.

(Two (2) snapshot photographs taken on trip from Texas to [33] Alaska were marked Government's Identification Nos. 28 and 29, respectively.)

Q. (By Mr. Stevens): This is Government's Identification 28?

A. This is a picture of myself taken at the same bridge.

Q. Was that taken on the same trip?

A. Yes.

Q. With the same camera? A. Yes, it was.

Q. Who took that? A. Mr. Kehert.

Q. Did you tell the FBI where they could find the camera and pictures, Miss Casey?

(Testimony of Marilyn Jean Casey.)

Mr. Taylor: Just a moment, your Honor. We are going to object as to any statement to the FBI unless the defendants were present. Any conversations with other persons not admissible.

The Court: Objection overruled.

Q. (By Mr. Stevens): Did you tell them where they could find the camera and pictures?

A. No, I believe they found them first and asked me what they were.

Q. You did not tell them that you owned the camera? A. Yes, I did.

Q. I believe, Miss Casey, you testified that you drove [34] the car from Spokane, Washington, to the Canadian border? A. Yeah, that's right.

Q. And you drove through the Canadian immigration yourself? A. That's right.

Q. And approximately a hundred fifty miles past there? A. That's right.

Q. Now, did you also testify that you had——
(Interrupted.)

Mr. Taylor: Just a moment, your Honor. Is this cross-examination? I am going to object to it if it is. Reiteration on direct, now, your Honor. I am certainly going to object.

The Court: Well, I think he is getting too many questions piled up at once.

Mr. Taylor: Just a reiteration of the stuff she has already testified to, your Honor.

The Court: Just don't have too many questions together. One question at a time.

Mr. Stevens: Very well.

(Testimony of Marilyn Jean Casey.)

Q. (By Mr. Stevens): Why did you drive the car across the Canadian border?

A. Because everyone else was tired.

Mr. Taylor: Just a moment, going to object to that, calls for a conclusion of the witness.

The Court: Objection overruled. [35]

Mr. Taylor: Improper attempted cross-examination.

Mr. Stevens: Your Honor, for the record I would like to ask the Court permit this, which is beyond the bounds of proper direct examination.

The Court: I will overrule Mr. Taylor's objection.

Mr. Stevens: You will allow me to go into this then?

The Court: Naturally.

Mr. Stevens: Thank you.

Q. (By Mr. Stevens) Miss Casey, you say you drove across the Canadian-Alaskan border also?

A. That's right.

Q. Why did you drive across that border?

A. Because the majority of the time they were driving and I didn't trust their driving anyway.

Q. Did you drive with anyone else between the time crossing the Canadian-American border and crossing the Canadian-Alaskan border, through Canada in other words?

A. You mean where I went, say into Canada and where I came out of Canada?

Q. Did you drive with anyone else other than the people you crossed the two borders with?

(Testimony of Marilyn Jean Casey.)

A. Yes.

Q. Whom did you drive with?

A. Mr. Kehert. [36]

Q. Did you drive with Mr. Bennett?

A. I did not.

Q. And who bought the gas when you were in Canada?

A. Well, if I remember right, I believe that they were using credit cards then, but I paid my part in cash.

Q. And who did you pay your cash to?

A. To Mr. Kehert.

Q. Did you stop anywhere in Canada over night?

A. Yes.

Q. Where did you stop?

A. Well, I can't remember the exact places because I don't know them.

Q. How many nights in Canada did you stop?

A. Approximately two.

Q. And where did you stay each night when you stopped?

Mr. Taylor: We object to the question, your Honor, as not competent, relevant or material to the issues, where they stopped crossing Canada.

The Court: Objection overruled.

Q. (By Mr. Stevens): Where did you stay in relation to the other people in the party?

A. What do you mean?

Q. Did you stay with any one of the defendants on either of the two nights when you stopped in Canada?

(Testimony of Marilyn Jean Casey.)

A. Do you mean did I sleep with them? [37]

Q. Well, did you stay in the same place with them, first? A. Yes.

Q. Who was that?

A. You know how the roadhouses are in Canada, if you are going to get a room you have got to get it all there.

Q. Who did you stay with, Miss Casey?

A. I stayed in the room with Wesley Kehert, but we always had twin beds.

Q. That was the same way both nights?

A. Yes, the second night we got one with a full-sized bed and a cot.

Q. Which bed did you sleep in that time?

A. The large bed.

Q. How long did you work in the City of Fairbanks as a prostitute, Miss Casey?

A. Approximately two days.

Q. And how much money did you earn?

Mr. Taylor: Just a moment, your Honor, we are going to object to the question as incompetent, irrelevant and immaterial, has no bearing on the case at issue. I think to prove that, your Honor, you would have to be specific, it would have to be specific acts of prostitution rather than a general statement.

The Court: Objection overruled.

Q. (By Mr. Stevens): The question is about the money, how much money did you earn? [38]

A. Approximately three hundred dollars.

Q. What did you do with that money?

(Testimony of Marilyn Jean Casey.)

A. I kept it.

Q. Did you keep it all?

A. All except what my expenses were, yes.

Q. Isn't it a fact, Miss Casey, you told the FBI you gave it to Mr. Kehert?

A. That's the story they wanted.

Mr. Taylor: Just a moment, your Honor, we are going to object to that question as improper direct examination. Nothing used to show that she had made contrary statements.

The Court: Well, the foundation isn't well laid. For that reason, I will sustain the objection until it is better laid.

Q. (By Mr. Stevens): Miss Casey, you were staying with Mr. Kehert when you came to Fairbanks? A. That's right.

Q. And did you engage in prostitution after you came to Fairbanks, immediately after you came to Fairbanks? A. Not immediately after, no.

Q. Well, within a relatively small period of time after you came to Fairbanks? A. Yes.

Q. And you stated at that time you were staying at the Trail's End Motel, or whatever that motel is? [39] A. Yes, that's right.

Q. Who paid the rent out there, Miss Casey?

A. Like I told you. He said he would get me started. He told me to go down and get a job dancing at the Squadron Club, which I didn't do.

Q. Who was it said that to you?

A. Mr. Kehert.

(Testimony of Marilyn Jean Casey.)

Q. Now, again I ask you, Miss Casey, did you give any of the money you earned by acts of prostitution to Mr. Kehert?

A. No, not earned by acts of prostitution, no.

Mr. Stevens: May we have a ten-minute recess, your Honor, at this time?

The Court: Yes, we will take a ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 3:55 p.m., the court took a recess until 4:07 p.m., at which time the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

The Court: Very well. Proceed.

MARILYN JEAN CASEY

the witness on the stand at the time the recess was taken, resumed the stand for further direct examination. [40]

Q. (By Mr. Stevens): Miss Casey, have you made a statement to anyone inconsistent with the statement you have made to the court and the jury today, inconsistent with the facts you have been questioned about so far?

A. Well, only to get out of jail.

Q. The question was, did you make a statement

(Testimony of Marilyn Jean Casey.)

inconsistent with your testimony before this court today?

A. Yeah, I did.

Q. And to whom did you make that statement?

A. Mr. Harkabus, Mr. Worsham, Mr. Gore.

Q. Where did you make the statement?

A. In the FBI office.

The Clerk: Government's Identification No. 30.

(Statement (6 pages) dated July 6, 1953, and signed by the witness, Marylian Jean Casey, was marked Government's Identification No. 30.)

Q. (By Mr. Stevens): Do you remember the date on which that statement was made, Miss Casey?

A. Must have been the 8th or 9th of July.

Q. You know it was in July? A. Yes.

Q. I hand you Government's Identification 30 which is dated the 6th day of July; can you identify that for us? A. Yes. [41]

Q. Is that a statement you have made?

A. It is.

The Court: What year was it made?

The Witness: 1953.

Q. (By Mr. Stevens): And where were you when you made this?

A. In the FBI Office.

Q. Here in Fairbanks, Alaska? A. Yes.

Q. Would you care to explain the inconsistencies between this statement and your statement before the court today?

A. Part of the statement is true, about the trip. The other part I told so I could get out of jail.

(Testimony of Marilyn Jean Casey.)

Q. You were in jail at the time? A. I was.

Q. And you made this statement to get out of jail? A. I certainly did.

Mr. Stevens: Would you like an opportunity to read this, your Honor.

Q. (By Mr. Stevens): On Government's Identification 30 there appears the initials "M.J.C." in many places; did you write those? A. I did.

Q. Did you read that statement?

A. I did. [42]

Q. And at the time you made it, did you make it voluntarily?

A. Did I make it voluntarily? You mean with no bribe or anything?

Q. That's right.

A. Well, there was a bribe.

Q. What was the bribe?

A. That I could get out of jail.

Q. And what were you in jail for?

A. They had me booked on operating a bawdy house and vagrancy.

Q. And who else was with you in jail?

A. Miss Crosby.

Q. And at that time you made this statement?

A. Yes.

Q. Who offered you the so-called bribe, Miss Casey? A. Well, the FBI.

Q. And what did they tell you?

A. They told me that if I would go ahead and tell them that Wesley Kehert and the rest of them had transported me to this country for prostitution

(Testimony of Marilyn Jean Casey.)

that Mr. Gore would have the charges dropped against me, and I would be released from jail, and said that anything I testified to I could not be prosecuted for.

Q. In other words, your testimony is that the FBI asked you to perjure yourself? [43]

A. You mean they asked me to perjure myself?

Q. Yes. A. No.

Q. Isn't that what you just said?

A. It's not. You asked me to tell you what the bribe was, and that's what I told you.

Q. Were you not asked to tell the truth concerning your transportation to Alaska?

A. Well, it didn't seem like they was particular or not as long as they could get these people. I don't know what they wanted them for.

Q. Did you read the sixth page of this statement where it says "I have dictated this 6 page signed statement. I have read it. It has been read to me. I have initialed each page and each correction, and signed this the last page with my signature. To the best of my knowledge and recollection, the facts contained in this statement are true and correct."?

A. I did.

Q. You read that and signed it?

A. Certainly.

Q. And you signed it in the presence of Mr. Harkabus and Mr. Worsham?

A. I did.

Q. And had those individuals identified themselves to you as FBI agents?

A. They had. [44]

(Testimony of Marilyn Jean Casey.)

Q. And in this statement did you tell the FBI that Wesley Williams had said to you, "I hear you are thinking of turning out"?

A. Did I say that?

Mr. Taylor: Just a moment, your Honor. We are objecting to any question as to any Wesley Williams.

Q. (By Mr. Stevens): Whom do you know as Wesley Williams, Miss Casey?

A. I know nobody by the name of Wesley Williams.

Q. This statement was dictated by you, Miss Casey?

A. Yes.

Q. And did the FBI know Wesley Williams; did they supply the name to you?

A. They got it off another piece of paper they had there or something, something they had got out of Anchorage.

Q. Is it not true that you said right in the statement that you know Wesley Williams as Wesley Kehert now?

A. No, Steve Williams.

Q. This statement says on Page 2, "at approximately 1:30 p.m., this date"—(Interrupted.)

Mr. Taylor: Just a moment, Mr. Stevens. I am going to object. I believe that the witness should be shown the statement if he is going to examine her about it, and not stand over there and possibly read some fictitious matter.

Mr. Stevens: Are you accusing me of reading some fictitious matter, Mr. Taylor? [45]

The Court: Go ahead, Mr. District Attorney.

(Testimony of Marilyn Jean Casey.)

Q. (By Mr. Stevens): To continue, it says, "this date I drove Wesley's car a 1953 2-tone green Buick 2-door which bore 1953 Indiana license WBA 8357 from Galveston, Texas, to Houston, Texas. Jack Bennett and Wesley Williams were with me." Is not Wesley Williams known to you as Wesley Kehert now, and the defendant in this case?

A. That's right.

Q. And did you tell the FBI what it says in this statement here, that Wesley Williams said, "I hear you are thinking of turning out," and "He said, 'if you are, you better come to Alaska with us. Don't fool around with these \$5 tricks, they are getting \$20 up there.' " Did you tell the FBI that statement?

Mr. Taylor: We are going to object to this question, your Honor, incompetent, irrelevant and immaterial. Made before the matters set forth in the Indictment. As far as the three defendants are concerned, there is no showing who was there and in whose presence the conversation was had.

The Court: You will show before you offer the paper in evidence, you will show certain things that will make it admissible, will you?

Mr. Stevens: The statement, your Honor?

The Court: Yes.

Mr. Stevens: I will call your Honor's attention to [46] our Statute, Section 58-4-59 which states we may not impeach our own witness, but we may con-

(Testimony of Marilyn Jean Casey.)

tradict him by other evidence, and may also show that he has made at other times statements inconsistent with his present testimony, as provided in section 58-4-62. In compliance with Section 58-4-62, "but before this can be done the statements must be related to him, with the circumstances of times, places, and persons present; and he shall be asked whether he has made such statements, and, if so, allowed to explain them. If the statements be in writing they shall be shown to the witness before any question is put to him concerning them." I have complied with both sections, your Honor. This is not hearsay. The hearsay rule is not involved. We do not believe and we are prepared to offer authorities to the court for that extent. This is the presentation of prior inconsistent statements of our own witness and not impeachment.

The Court: Well, to lay a foundation at any time you have to show the time, place and persons present.

Mr. Stevens: We have done that, your Honor. Miss Casey has said where the statement was made, who was there, and when it was made.

The Court: It seems to me the FBI people to whom she made the statements should be put on the stand and the matter cleared up before it is offered in evidence.

Mr. Stevens: That is true, your Honor. This time we are just asking Miss Casey whether she made the statements. [47]

Mr. Taylor: If the court please, I would like to

(Testimony of Marilyn Jean Casey.)

call the court's attention to the fact that the District Attorney was attempting not to establish whether or not she made the statement in the paper or Identification 30, I believe it is, but was going back and examining her as to when and where the statement was made or the conversation was had between Mr. Kehert and this witness. I think it can only go as to whether she made the statement to the FBI, not the circumstances of the conversation, of the text.

The Court: Objection overruled.

Mr. Stevens: Will you read the last question?

(The reporter read the last question as follows: "And did you tell the FBI what it says in this statement here, that Wesley Williams said, 'I hear you are thinking of turning out,' and he said, 'if you are, you better come to Alaska with us. Don't fool around with these \$5 tricks, they are getting \$20 up there.' Did you tell the FBI that statement?")

A. Yeah, but it wasn't true.

Q. At this time you tell us it is not true?

A. I do.

Q. But you did tell the statement to them at that time? A. I did.

Q. And when did you get to Alaska?

A. June the 29th or 30th.

Q. You had been here six days; is that right?

A. That's right. [48]

Q. Would you like an opportunity to reread this

(Testimony of Marilyn Jean Casey.)

statement, Miss Casey? A. No, I wouldn't.

Q. Miss Casey, did you make this statement to the FBI, "They, Jack Bennett and Wesley Williams, discussed crossing the Canadian border on several occasions, while we were on this trip. Both of them stated that they are known by the customs officials and stated that all girls should stay in one car. Before we crossed the line into Canada, I recall that Bennett stopped at a small town where he purchased a plastic picnic set and other groceries." Did you make that statement?

A. Would you read that again, please?

Q. "They, Jack Bennett and Wesley Williams, discussed crossing the Canadian border on several occasions, while we were on this trip. Both of them stated that they are known by the customs officials and stated that all girls should stay in one car. Before we crossed the line into Canada, I recall that Bennett stopped at a small town where he purchased a plastic picnic set and other groceries."

A. No, I didn't say that.

Q. You didn't say that? A. No, I did not.

Q. You recall that on page 6 this statement says, "I have dictated this 6-page signed statement. I have read it. It has been read to me. I have initialed each page and each [49] correction, and signed this, the last page, with my signature. To the best of my knowledge and recollection, the facts contained in this statement are true and correct"?

A. Yes.

Q. You had read the statement?

(Testimony of Marilyn Jean Casey.)

A. Well, I was in a hurry to get out. I mean I didn't read it real thoroughly, no.

Q. Miss Casey, on Page 4 there is a sentence crossed out with "M.J.C." written about it, did you write that? A. Yes.

Q. Is not that sentence right the next sentence behind the section I have just read to you, the three sentences I have just read to you?

A. That's right.

Q. You read it closely enough to cross out one whole sentence?

A. I was not reading it, crossing out sentences. They was glancing over showing me the mistakes.

Q. What was the mistake about, "I bought a pair of peddle pushers"? A. Yes.

Q. Each change and each place you put your initials is where the FBI told you to, Miss Casey?

A. When I was making the initials over the mistakes there I was not reading the statement. I was only picking out the mistakes. [50]

Q. Was it a mistake to write, "I bought a pair of peddle pushers"? A. They said it was.

Q. So you crossed it out?

A. They crossed it out and I initialed it.

Q. Did you tell the FBI prior to Norma Crosby driving in the Mercury (interrupted)——

Mr. Taylor: Now, just a moment. Your Honor, I am going to object. I believe that the District Attorney should show the witness that paper and call her attention to the particular statement he is going to interrogate her about.

(Testimony of Marilyn Jean Casey.)

The Court: She is entitled to look at the paper if she wants to at any time. She has waived it heretofore. If you want to see the paper, look it over before you answer, after he has given you the question, speak right up and ask for it.

The Witness: All right.

Q. (By Mr. Stevens): Miss Casey, again from Page 4, it says, "Prior to Norma Crosby's driving the Mercury in which I was a passenger across the Canadian Border, it had been discussed by the girls, Norma Crosby, Fern Bennett, Carole and myself, that we were to travel to Alaska and work as prostitutes. Norma had knowledge that all the girls were to work as prostitutes. About fifty miles after we crossed the border, we stopped along the highway and changed cars again." Did you tell the FBI that statement? [51]

A. Yes, but it wasn't true either.

Q. Had you read the statement at the time the statement was made?

A. You mean after the statement was made?

Q. Yes, the whole statement?

A. Yes, I read it.

Q. Was it read to you? A. No, I read it.

Q. Did you sign it? A. I did.

Q. And these initials, "M.J.C.," again are your initials? A. That's right.

Q. Miss Casey, did you also make a statement before Mrs. Nordale, the United States Commissioner, in connection with this case? A. I did.

(Testimony of Marilyn Jean Casey.)

Q. And who was with you when you made that statement?

A. Mr. Harkabus, Mr. Worsham, Mrs. Nordale and myself.

Q. And at that time, were you coerced to make that statement?

Mr. Taylor: Now, just a moment, your Honor, I think the time and place, or the time particularly should be brought out from this witness.

The Court: I do, too. Lay your foundation in any order you want to.

Q. (By Mr. Stevens): Were you coerced in any way at that time? [52]

A. I wasn't out of jail yet, if that's what you mean.

Q. Who told you what to say in that statement?

A. Well, no one told me what to say. That statement was already typed out whenever I signed it.

Q. What time was it when you made that statement?

A. That was on the 7th of July, 1953, approximately, oh, I believe it was in the afternoon.

Q. And there were just the four of you present?

A. That's right.

Q. And did not Mrs. Nordale ask you if you swore that the statement was true?

A. That's right.

Q. And did you swear before Mrs. Nordale, the U. S. Commissioner, that that statement was true?

A. I did.

Mr. Taylor: Just a moment, your Honor. I am

(Testimony of Marilyn Jean Casey.)

going to object to that. I believe Mrs. Nordale would be the best witness as to what was said. None of the defendants were present.

The Court: Objection overruled.

Mr. Stevens: I am sorry for the delay, your Honor. The statement was here, but it seems to be in my office. May we have just a delay of a couple of minutes, your Honor? Mr. Yeager is getting the statement.

The Clerk: Government's Identification No. 31.

(Affidavit signed by Marylian Jean Casey, dated July 8, 1953, [53] was marked Government's Identification No. 31.)

Q. (By Mr. Stevens): This is Government's Identification 31, Miss Casey. Did you sign that document? A. Yes, I did.

Q. Have you read it, Miss Casey?

A. Yes, I have.

Q. Is that a copy of the statement which you made to Mrs. Nordale?

A. I made two statements to Mrs. Nordale. The statement was already typed out when I went up before her.

Q. This is dated the 8th day of July?

A. That's right.

Q. The other statement was dated the 6th of July? A. Yes.

Q. The FBI then prepared this statement for you? A. That's right.

Q. Did you read it as an affidavit before you

(Testimony of Marilyn Jean Casey.)

signed it? A. It was read to me.

Q. It was read to you, and did you swear to this statement before Mrs. Nordale? A. I did.

Q. You swore to her that the statements were true? A. That's right.

Q. Now, Miss Casey, going back to Odessa, Texas, did Mr. Bennett's father accompany you any part of the way as you left Odessa? [54]

A. I believe that he took a couple of suitcases to Mrs. Bennett about a block down to where his other car was parked.

Q. Just about a block?

A. Yeah, that's right.

Q. And which other car was it that you went to?

A. Mercury.

Q. And was that Mr. Bennett's car?

A. It was.

Q. Did you tell us what color that car was?

A. I did. I told you it had a red bottom and a cream top.

Q. What color was the Cadillac? A. Blue.

Q. And what color was the Buick?

A. Green, two-tone.

Q. On Page 3 of Government's Identification 30 it states, "I stayed with Wesley Williams at the Westward Ho, on U. S. Hwy. 85, No. 87, 1744 South Santa Fe Drive. We stayed there one night only. I don't remember how Wesley Williams registered. At approximately 11:30 a.m., June 22, 1953, Wesley Williams picked up a \$1,000 Western Union Money Order. I know this because Jack Bennett and I

(Testimony of Marilyn Jean Casey.)

accompanied him to the Western Union office. We drove to the Troyal Motel and picked up the other girls." Did you tell that to the FBI?

A. Let me see it. [55]

Q. Would you like to read the whole thing, Miss Casey?

A. No. Yes, I told them the name of the motel, but they was the ones that picked out the highway, where it was located, and as far as the money, he was getting kind of low and needed some more money to get up here, I guess.

Q. The words, "at Denver," are written in there, are they not? A. Yes.

Q. Did you write them in there?

A. Yes; I told you we went to the Western Union.

Q. Would you like time to read the whole statement, Miss Casey? A. No.

Q. On page 5, Miss Casey, it states, "The first night I worked as a prostitute was June 30, 1953. I worked out of the Southside Bar located on 15th and Cushman. I turned six tricks at \$20 each. I earned \$120. I gave it all to Wesley Williams. Williams, in turn, gave me \$4 back and said if I had the rest of the money I would just spend it. I took the tricks to a cabin located across from the Transient Rooms. This cabin was rented by Wesley Williams from Murphy." Would you like to read that, too? A. No.

Q. Did you tell that to the FBI?

A. Did I?

(Testimony of Marilyn Jean Casey.)

Q. Yes. [56] A. Yes, but it wasn't true.

Q. What wasn't true?

A. The only part of that that is true is that I was getting ready to reside at the Trail's End Motel, but of any prostitution money, I didn't give Wesley Kehert any part of it.

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: It is getting pretty hot and uncomfortable in here. If the court please, it is a short time until 5:00 o'clock. I wonder if we could recess until 10:00 o'clock in the morning?

The Court: I think you should utilize the next twenty minutes.

Cross-Examination

By Mr. Taylor:

Q. Miss Casey, when did you first decide to engage in prostitution in Fairbanks?

A. Well, I decided myself because I didn't want—pay me ten dollars a night to dance at the Squadron.

Q. Where did you first make that decision?

A. Well, I made that decision myself about a day after I got up here, I guess.

Q. So that you didn't have any knowledge at the time that you left Texas or any time prior to reaching Fairbanks to go into prostitution then?

A. No. No, I had no idea. I did that myself. [57]

Q. Now, just state to the jury and the court what the conversation was between you and any of

(Testimony of Marilyn Jean Casey.)

these defendants that brought you to Fairbanks, and where it took place?

A. Well, between Mr. Kehert and myself before we left Fairbanks we had very good intentions coming up here to get married and after we got here we had quite a few fusses on the way. That's why I mostly rode a car with other people, and after I got here and was booked on prostitution and although it was never proven he wouldn't have nothing else to do with me.

Q. And what conversation did you have with any of the other defendants about practicing prostitution?

A. There was none.

Q. And just state what talks you had about riding to Fairbanks?

A. Well, all this talk that we had was that even in Texas we were engaged to each other in Texas, and due to the fact that it was—well, my parents, you know, was going to kind of object to it, and rather than to fall out with them and everything, I mean, I had some money saved so I just suggested taking a trip, and (interrupted)——

Q. And did you suggest to them or ask them if you could ride in their cars?

A. Well, I was the one that started it, the idea of coming to Alaska.

Q. Oh, you were? [58]

A. Yes.

Q. And so on the trip up then, you first went from, I believe you went from Galveston, Texas, to Houston, Texas, or Odessa, Texas?

A. Yes, that's right.

(Testimony of Marilyn Jean Casey.)

Q. How far is those two towns apart?

A. Well, let's see, Galveston is an island in the Gulf of Mexico, and Odessa is approximately two hundred fifty miles from Galveston, I guess.

Q. And was Mrs. Bennett in Houston at the time that you saw her?

A. No, she was in Odessa.

Q. And when did you first see Mrs. Bennett?

A. Well, I had known Mrs. Bennett for approximately a year, or a year and a half prior to that time.

Q. When was the first time that you saw Mrs. Bennett after you left Galveston?

A. In Odessa.

Q. And was there any talk about coming to Alaska?

A. Well, the only talk there was was that I told them that I wanted to come to Alaska and just talked it over, and so they decided that would be just as good a place to go for a vacation trip as any.

Q. So then your first idea of coming to Fairbanks was more or less in the nature of a vacation?

A. Yes, it was. [59]

Q. Was there any talk between you and any of these defendants as to your practicing prostitution in Alaska for them?

A. Oh, no. No, I didn't even want to mention the fact that even whenever they booked me on prostitution I didn't want to mention the fact to these people that I was.

Q. And, well, then, there was no arrangements

(Testimony of Marilyn Jean Casey.)

made for you going into any house of prostitution prior to coming to Alaska?

A. Oh, no; none whatsoever.

Q. Now, you say that there was, sometimes the gas was paid for by gas coupons?

A. That's right.

Q. And sometimes it was paid for by cash?

A. That's right.

Q. And what arrangements, if any, did you have regarding the payment of your share of the expense of going up, the expense of room and board?

A. Well, I mean, the way I figured it was, I was traveling with Wes and I didn't think it was fair that he pay my way up here, and due to the fact that he had only one car, and I felt it was only in my behalf to furnish gas and oil for the one car, just furnish my own food bill and my own hotel bills.

Q. And I believe you stated you arrived in Fairbanks on the 30th of June, 1953?

A. That's right. [60]

Q. And you went to the Transient Rooms?

A. Transient, yes.

Q. And where is that located?

A. 17th and Cushman. It burned.

Q. And, now, did you associate with Mr. or Mrs. Bennett or Norma Crosby in Fairbanks after you got here?

A. No, I did not.

Q. And you did, you was with Mr. Kehert for a couple of days; is that right?

A. One day.

Q. And have you ever associated with Mr.

(Testimony of Marilyn Jean Casey.)

Kehert or Mr. Bennett or Mrs. Bennett or Norma Crosby since that time? A. I have not.

Q. You have been actually on your own then?

A. That's right.

Q. Now, when you crossed the line between Washington and Canada, how long had you been driving prior to your coming to the Canadian border? A. Alaska and Canada?

Q. No. Canada and the United States.

A. Oh, from Spokane.

Q. You had been driving all the way from Spokane. You know about how far that is from Spokane to the border? A. No. It was quite a ways.

Q. And it just happens you was then driving the car?

A. Yes, because everyone else was tired. [61]

Q. And did you ever have any conversation about switching cars when you got to the border, that you would drive?

A. No; it wouldn't have made no difference what car I was in. Just happened to be there.

Q. Just happened to be you were at the wheel, wasn't it? A. That's right.

Q. Now, you testified to being the owner of a camera that was taken along on that trip?

A. Yes, I did.

Q. And where was—you stated that camera was among your personal effects at the Transient Rooms?

A. Yes; I hadn't moved them out yet.

Q. And do you have that camera now?

(Testimony of Marilyn Jean Casey.)

A. No, I don't.

Q. Do you know where it went?

A. The FBI still has it, I think.

Q. And how did they get the camera?

A. They went out to the rooms and got it.

Q. And did they have a Search Warrant to search your effects?

Mr. Stevens: I object to that, your Honor. I beg your pardon. Did you say her effects?

Mr. Taylor: Yes.

Mr. Stevens: I'm sorry.

A. Not as far as I know, they didn't. [62]

Q. Did they ever serve a Search Warrant on you? A. They did not.

Q. Did they give you a receipt for the camera?

A. They did not.

Q. Did they give you a receipt for the films?

A. They did not.

Q. In other words, they stole the camera from you, is that right? A. That's right.

Q. You had never given them permission to take the camera? A. No, I didn't.

Q. Did you give them permission to develop these films? A. I did not.

Q. When was the first time you saw these films?

A. After they were developed.

Q. Who developed them?

A. I don't know. They took them somewhere and had them developed.

Q. You don't know who developed the films

(Testimony of Marilyn Jean Casey.)

then? A. No, I don't. I have no idea.

Q. Now, when were you first arrested, Marylian, after you got into (interrupted)——

A. On July the 3rd.

Q. What?

A. On July 3rd, approximately 11:00 o'clock at night. [63]

Q. I will hand you some of these exhibits just indiscriminately here and ask you if you made any of this writing on the back of these films?

A. No.

Q. Did you make any writing on the back of any of them? A. I did not.

Q. Do you know who did make the writing on them? A. Yes, I do.

Q. Who made it? A. Mr. Harkabus.

Q. Was Mr. Harkabus present at the time these pictures were taken? A. He was not.

Q. Do you know what mile that was taken on the Alaska Highway? A. No, I don't.

Q. Do you know what mile that was taken?

A. No, I don't.

Q. Do you know whether or not that was in Canada or Alaska, State of Washington, State of Wyoming?

Mr. Stevens: Your Honor, could I ask that Mr. Taylor have these identified by number so the record would be straight?

Mr. Taylor: I am addressing these questions to all of these, your Honor, if she knows where any of them were taken. [64]

(Testimony of Marilyn Jean Casey.)

The Court: Your objection is sustained, Mr. District Attorney.

Q. (By Mr. Taylor): I hand you Government's Identification 15 and ask you to state if you know whether that was in Alaska, Canada, State of Washington, Wyoming? A. I don't know.

Q. Or whether that picture might have been taken prior to leaving Odessa?

A. Well, it could have been taken anywhere.

Q. Then I will hand you Identification 13 and I will ask you the same question. Do you know where that was taken, the milepost on the Alaska Highway or if it was in Washington, Denver, Oklahoma?

A. Well, this was taken in some little town. I don't know where it was.

Q. Might have been in Texas?

A. Might have been anywhere.

Q. O.K. I will hand you Government's Identification 14. I will ask you the same question. Do you know where that was taken?

A. I have no idea.

Q. You don't know whether it was taken on that trip or not then, do you?

A. It was on the trip. I don't know what part.

Q. Might have been in (interrupted)— [65]

A. I wanted these pictures as souvenirs.

Q. And you, on this one, on this picture, did you—Identification 12, did you write anything on the back of that? A. No, I did not.

(Testimony of Marilyn Jean Casey.)

Q. Now, Government's Identification 2, I would like to have you state whether you wrote anything on the back of that. Also, if you know where it was taken?

A. No, I don't.

Q. Also, I would, just a moment. Identification 4, and ask you to state if you put any writing on the back of that?

A. No, I did not.

Q. If you know what milepost in Canada or Alaska it was taken?

A. I don't know.

Q. It might have been taken in the states, is that right?

A. Could have been.

Q. Do you know a man named Steven Williams?

A. Yes.

Q. Well, I will hand you Plaintiff's Identification 5 and ask you to state where that was taken, if you know?

A. I don't know.

Q. Did you put any writing on the back of that?

A. I did not. [66]

Q. O.K., we'll hand you now Government's Identification 6 and ask you if you made any notations on the back of that and also ask you where that was taken?

A. I made no writing on the back, and I don't know where it was taken.

Q. Could have been in Washington, Wyoming, Oklahoma?

A. Could have been.

Q. Now, here is Government's Identification 8; did you put any notations on that one?

A. No.

Q. And did you put on the face of that last picture, did you put some initials, a "B" and "C"?

(Testimony of Marilyn Jean Casey.)

A. No, I did not.

Q. Do you know who did put those on there?

A. Yes, I do.

Q. So that picture is not as it was developed then? A. No, it isn't.

Q. Well, we have Identification, Government's Identification No. 9; do you know, as you, if you made any notations on that? A. No, I did not.

Q. And if you know where it was taken?

A. No, I don't.

Q. O.K. We will have now Government's Identification 10 and ask if you made any notations on the back of that picture and if you know where it was taken? [67] A. No.

Q. And I will ask you the same questions as to Plaintiff's Identification 11 there; anything on that to indicate where it was taken or if you made any notations upon the back of it? A. No.

Q. And also I will ask you the same questions as to Government's Identification 3? A. No.

Q. And I will hand you Government's Identification 7 and ask you if you made any notations on the back of that, or if you made any, put those letters over the various parties shown on the front of the picture? A. No.

Q. And do you know where it was taken?

A. No.

Q. And I will also hand you Government's Identification 1 and ask you where that was taken and if you made any notations either on the back or the face of that picture? A. No, I didn't.

(Testimony of Marilyn Jean Casey.)

The Court: Take a recess any time you want one now, Mr. Taylor.

Mr. Taylor: Yes, your Honor. Like to take it now.

The Court: In a moment we will take an adjournment until 10:00 o'clock tomorrow morning. In the meantime, ladies [68] and gentlemen of the jury, remember not to talk about the case or the parties or to permit anyone to talk about them within your hearing. Keep your minds free from an opinion as to the guilt or innocence of these defendants or each of them until the case is finally submitted to you. Make the adjournment, **Mr. Clerk.**

The Clerk: Court is adjourned until 10:00 o'clock tomorrow morning.

(Thereupon, at 5:00 o'clock p.m., the trial of this cause was adjourned until May 11, 1954, at 10:00 a.m.)

(Be It Remembered, that upon the 11th day of May, 1954, at the hour of 10:00 o'clock a.m., the trial of this cause was resumed, the plaintiff and the defendants both represented by counsel, the Honorable Harry E. Pratt, District Judge, presiding.)

The Court: Call the roll of the jury.

(Whereupon the Clerk of the Court proceeded to call the roll.)

The Clerk: They are all present, your Honor.

The Court: Counsel ready to proceed now?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor. Before we begin, your Honor, may we ask that the mandate in *United States v. Robinson* be spread on the record and the defendant's bondsmen be notified to produce him in court at 1:30? [69]

The Court: It may be so done, and also ordered.

Mr. Stevens: Thank you, your Honor. Miss Casey here? You were on the stand, Miss Casey.

MARILYN JEAN CASEY

the witness on the stand at the time of the adjournment, resumed the stand for further

Cross-Examination

By Mr. Taylor:

Q. Miss Casey, you stated yesterday that you had known Norma Crosby in Texas?

A. That's right.

Q. What was her occupation in Texas?

A. At the time I knew her she was a waitress, I believe.

Q. And when she came to Fairbanks, do you know whether she made any attempt to get a job at her usual occupation, waitress?

A. I'm not sure.

Q. And I believe you stated yesterday that immediately upon leaving, arriving at Fairbanks, why you left the others and went on your own?

A. That's right.

Q. Now, what day did you arrive in Fairbanks, to the best of your recollection?

(Testimony of Marilyn Jean Casey.)

A. Approximately June 29.

Q. Approximately June 29? A. Yes, sir.

Q. And when were you arrested? [70]

A. On June the 3rd, approximately 11:00 o'clock that night.

Q. July the 3rd? A. That's right.

Q. And where were you arrested?

A. At the Trail's End.

Q. And who were you arrested by?

A. By Mr. McRoberts, Frank Werth and three other people I don't know.

Q. Were any of them agents of the FBI?

A. They were not; no, sir.

Q. And did they have a Warrant?

A. They did not.

Q. And where were you at the time the arrest was made, in your apartment or cabin?

A. Yes.

Q. And what were you doing at the time of the arrest? A. I was getting up.

Q. In your home? A. Yes.

Q. And when was, when were you arraigned or after that arrest?

A. July the 7th, I believe it was, 7th or 8th.

Q. What?

A. July the 7th, I believe it was.

Q. And you were held in jail then from July the 3rd to July the 7th? [71] A. Yes, sir.

Q. Without being arraigned before Mrs. Nordale? A. Yes, sir.

Q. The United States Commissioner, and during

(Testimony of Marilyn Jean Casey.)

that time did you have conversations with the, with any of the Marshals or Deputy Marshals or members of the FBI? A. I did; yes, sir.

Q. And how often did you have those conversations?

A. Well, the day they were supposed to take me down to be arraigned before Mrs. Nordale, the Commissioner, they never did take me to the Commissioner's Office. They took me into Mr. Gore's office with Mr. Gore, Mr. Harkabus and Mr. Worsham there.

Q. And what did they do there?

A. They started telling me they wanted a story on the people.

Q. And did they suggest what story that should be? A. Did they suggest it?

Q. Yeah.

A. They told me that they knew they brought me up here for the purpose of prostitution even though it wasn't mentioned.

Q. Now, calling your attention to Government's Identification 30, statement that has been attributed to you on July the 6th, 1953. Now, apparently, I believe they stated—dictated by you. Did you, out of your own mind, put these [72] words down on paper or give them to anybody, "I, Marylian Jean Casey, make this free and voluntary statement to John Worsham and Edward Harkabus who have identified themselves to me as Special Agents for the Federal Bureau of Investigation"?

(Testimony of Marilyn Jean Casey.)

A. No, I did not. Those are their words. They put those down.

Q. Did you also put down the words, "No threats, promises of reward or otherwise have been made to me"? A. I did not.

Q. And who did? Who put those statements?

A. Mr. Harkabus.

Q. And after they told you that they knew these defendants had brought you up here for the purpose of prostitution, did they suggest the answers, does these answers suggested to you by Mr. Worsham or Mr. Harkabus or Mr. Gore or Mr. McRoberts? A. Quite a few of them, yes.

Q. And the story, conversations that they have put in here as to what was said by Mr. Williams, known as Steve, did you know a Mr. Williams, Steve Williams? A. Yes, I do.

Q. Now, you say that you stayed, you was held in jail from July the 3rd to July the 7th, is that right? A. That's right.

Q. And what is the date that this was signed, that is, the date of this instrument was July the 6th, was that the date? [73]

A. Yes, sir; that's the date they were supposed to take me to be arraigned before the Commissioner. I didn't get there.

Q. They didn't take you before the Commissioner? A. No, they didn't.

Q. What, if anything, did either Mr. Worsham or Mr. Harkabus say what would be done in case you would sign that paper?

(Testimony of Marilyn Jean Casey.)

A. They said I would not be prosecuted.

Q. And who typed this paper up?

A. I don't know for sure. I guess they did.

Q. Was it typed in your presence?

A. No, it was not.

Q. But during this three or four days that you were held in jail, did you have more than one talk with these men? A. Oh, yes.

Q. How many times were you taken before them? A. Approximately three or four.

Q. Did they at any time tell you about taking your, the films from your residence?

A. They didn't tell me until after they already had the camera and films.

Q. And they took the camera and then told you they had it? A. Yes, they did.

Q. Now, at the time that they entered your room and [74] took your camera, were any of the Identifications, from 1 to 30, or 1 to 29, I believe, had they ever been developed?

A. No, they hadn't. They were still in the rolls.

Q. Now, what time of the day was it that you signed this, Plaintiff's Identification 30, what time?

A. Well, whenever I went down to the office where they was. It was approximately, I would say, 11:30 in the morning, and they kept me up here until approximately 9:00 or 10:00 that night, and I believe I signed that the next morning, if I remember correctly.

Q. Did they have you in the office in the evening? A. Yes, they did.

(Testimony of Marilyn Jean Casey.)

Q. And how long were you in the office being interrogated, or told what your story was by Mr. Harkabus and Mr. Worsham?

A. From 11:00 o'clock that day until 9:30 that night.

Q. From 11:00 o'clock, and was that the time that they told you if you would sign this that they would turn you loose? A. It was.

Q. You ever remember going through a town named Orville, Washington?

A. No; the name doesn't sound familiar. I didn't pick that name.

Q. Who suggested that name to you?

A. Mr. Harkabus. [75]

Q. Marylian, did you, after arriving at Fairbanks, look for a job? A. Yes, I did.

Q. Where, what kind of work were you looking for?

A. Well, I wanted to either get work at a drive-in, found out there was no opening, so I settled for a waitress. I didn't want to taxi dance because it didn't pay enough.

Q. You thought about taxi dancing?

A. Yes, I did.

Q. Whereabouts? A. Squadron Club.

Q. Oh, you did go to work there?

A. Yes, I did.

Q. Since then have you done dancing, entertaining in and around Fairbanks at various clubs?

A. Yes, I have.

Q. What kind of work is that?

(Testimony of Marilyn Jean Casey.)

A. By profession I am a shake dancer.

Q. A what? A. Shake dancer.

Q. And do you remember a town named Three Forks, Montana? A. No, I don't.

Q. Who suggested that town to you?

A. I never heard of Three Forks, Montana, before.

Q. You remember Cheyenne? [76]

A. Yes, sir; I do.

Q. You remember being in Cheyenne?

A. I remember going through Cheyenne.

Q. And you remember going through a town called Casper, Wyoming?

A. No, sir; I don't, Mr. Taylor, because I didn't put any of those names in there. They looked on a map and picked the names.

Q. And the town of Cody? A. No, sir.

Q. Who suggested those names?

A. Mr. Harkabus put them in.

Q. Couer d'Alene, you remember a town named Couer d'Alene? A. No.

Q. Who suggested that name?

A. Mr. Harkabus did.

Q. Now, Miss Casey, at any time on that drive or prior to coming from Texas, did either Mrs. Bennett or Norma Crosby ever talk to you about going into a house of prostitution in Fairbanks?

A. No, sir; I don't hardly see how they could because it wasn't even in my mind whenever I got here.

Q. In fact, when you left there you had no idea?

(Testimony of Marilyn Jean Casey.)

A. I had no intentions whatsoever and I'm sure they didn't either.

Q. How long did you live in the, at the Trail's End Motel? [77]

A. Well, approximately whenever I first went to work at the Squadron Club, which was on July 9th. I lived at the club for approximately a week, a week and a half, and then I moved into the Trail's End where I lived for approximately a month or a month and a half.

Q. Now, you never swore that this is the truth, did you, Miss Casey?

A. That one there, I did not, no.

Q. And you are now under oath? A. I am.

Q. And is what you are saying now the truth?

A. It is, sir.

Q. And the reason that you signed this then was for the purpose of getting taken before the United States Commissioner so you could get bail, get out of the jail?

A. That's right, but I had both charges dropped after I signed the paper.

Q. And did they ever prosecute you on the charge which they arrested you on in the first place?

A. No, sir; they got dropped when I signed the paper.

Q. They kept their promise?

A. Yes, they did.

Q. So you got paid off after signing the paper, is that right? A. I guess that's right.

Q. So they kept their promise? [78]

(Testimony of Marilyn Jean Casey.)

A. Yes, they did.

Q. Now, Miss Casey, I will hand you Government's Identification No. 31 and it is purported to be a statement made before, an affidavit made before Mrs. Nordale. Now, is the date of that the date that you were before Mrs. Nordale? A. Yes, sir.

Q. What is that date?

A. The 8th day of July, 1953.

Q. And how did you happen to go before Mrs. Nordale and sign this affidavit?

A. The FBI told me that anything I swore to they could prosecute me for and then they didn't tell me until after I had already put my name on the piece of paper that I could be held for perjury.

Q. Did you prepare this paper?

A. I did not.

Q. Were you present when it was prepared?

A. No, I wasn't.

Q. And that was the day following, was that the day following the day that you signed this other paper, Identification 29, I believe that was, on the 6th, wasn't it? A. I believe so.

Q. This is the 8th, that would be two days later?

A. Yes, sir.

Q. Were you still in jail then the two days [79] later?

A. No. I had gotten out Monday afternoon, but they told me they wanted to see me again on the 8th.

Q. You went back on the 8th; what time of the day was it?

(Testimony of Marilyn Jean Casey.)

A. It was early in the morning, approximately 9:00 or 10:00 o'clock, I guess.

Q. And did you read this at the time that you signed it?

A. No, sir; I didn't read it. They read it to me, but they read it so fast I didn't know what was in it after they read it.

Q. So the wording in this is not your wording?

A. No, sir; none of that is my wording there.

Q. You didn't use the words then, "We travelled from Texas through the United States and subsequently crossed the Canadian border"?

A. No, sir; I did not.

Q. You did not then state, "Norma Jean Crosby drove the aforementioned girls across the Washington-Canadian border with full knowledge that instant girls were going to Alaska to work as prostitutes"? A. I said nothing like that.

Mr. Stevens: I beg your pardon. Would you read that last?

Mr. Taylor: "Norma Jean Crosby drove the aforementioned girls across the Washington-Canadian border with [80] full knowledge that instant girls were going to Alaska to work as prostitutes."

Q. (By Mr. Taylor): Do you know what the word "cognizant" means? A. No, I don't.

Q. So you didn't put the word down, the following words on this paper then, "Both Jack Bennett and Wesley Williams were cognizant that all of the girls were to work as prostitutes in Alaska"?

(Testimony of Marilyn Jean Casey.)

A. No, I did not.

Q. Whose wording is that?

A. Mr. Harkabus, I believe, fixed those papers.

Q. And did you sign that before you went before Mrs. Nordale, or did you sign it before Mrs. Nordale? A. Before Mrs. Nordale.

Q. And what inducement was given to you to sign this piece of paper?

A. Well, I was given that that piece of paper would not be to prosecute me, but yet they tried to with it.

Q. They tried to? A. They did.

Q. Now, Miss Casey, has any further threats or inducements been made to you to change your story as to what the FBI and the Marshal's office wanted?

A. Yes, sir; there has.

Q. And when has those threats or inducements been made? [81]

A. On April the 29th I heard that Mr. Thompson wanted to see me.

Q. And what was the inducement made for you to change your story?

A. Mr. Thompson told me if I would come up here and incriminate these people I could operate a bawdy house open here.

Q. And he then gave you the promise that if you would come up and implicate these defendants that you could run a bawdy house openly?

A. He certainly did.

Q. In any particular part of town?

A. He didn't say.

(Testimony of Marilyn Jean Casey.)

Q. Did you ever work at the Squadron Club?

A. Yes, sir; I did.

Q. So I take it then from your testimony, Miss Casey, at the time that you came to Fairbanks that you had no intentions of entering into prostitution?

A. No, sir; I did not.

Q. So then on the 28th day of June, 1953, then they could have been no concerted agreement between all of you that you was to enter a house of prostitution?

A. Of course not.

Mr. Taylor: That's all.

Redirect Examination

By Mr. Stevens: [82]

Q. You were engaged to Mr. Kehert, Miss Casey?

A. I was.

Q. How long were you engaged to Mr. Kehert?

A. Approximately three months before coming to Alaska.

Q. And you were to get married?

A. That's right.

Q. Were you engaged to Mr. Kehert in Texas?

A. I certainly **was**.

Q. And it was your idea to come to Alaska?

A. It **was**.

Q. And while you were engaged to Mr. Kehert you paid your own way to Alaska?

A. I certainly did.

Q. And while engaged to Mr. Kehert you stayed in the same cabins with him on the way up?

(Testimony of Marilyn Jean Casey.)

A. That is true.

Q. And you stayed actually in the same bed with him? A. Not all the time, no.

Q. Well, at least on one occasion in Denver you testified, did you not? A. Yes, that's right.

Q. And did you participate in any acts of sexual intercourse with Mr. Kehert?

Mr. Taylor: We object, your Honor, incompetent, irrelevant and immaterial, has no bearing upon the prosecution for transportation or [83] conspiracy.

The Court: Objection overruled. Answer the question.

A. At that time, no.

Q. (By Mr. Stevens): And Miss Casey, when you were brought into jail you were in jail on a vagrancy charge?

A. That's right, and operating a bawdy house.

Q. And what date was that?

A. It was on July the 3rd, approximately 11:00 o'clock at night. It was on a Thursday.

Q. Was the complaint read to you at any time by Mrs. Nordale?

A. It was read whenever the charges were dropped in her court.

Q. And then you talked to the FBI on the 6th, is that right, the 6th day of July, 1953. That is the date the statement is signed, is that correct?

A. Yes, it is.

Q. And after you signed the statement you were released from jail? A. I was.

(Testimony of Marilyn Jean Casey.)

Q. And two days later you came back to sign the statement before Mrs. Nordale?

A. That's correct.

Q. Did someone drag you back before Mrs. Nordale?

A. They did not. I didn't say they did. [84]

Q. And you come back voluntarily?

A. I came back, yes.

Q. And you swore that the statement you signed was true? A. Yes, I did.

Q. It was an affidavit, was it not? It was not prepared as your statement. It was prepared as an affidavit of facts for you to sign?

A. I don't know what you call it, but I know that isn't my wording in there.

Q. But you did sign it? A. I did.

Q. And Mrs. Nordale asked you whether or not it was true? A. That's correct.

Q. And that was after you were released from jail? A. That's right.

Q. And did you know that by signing that affidavit the person to whom you were engaged would be thrown in jail? A. Did I know that?

Q. Yes.

A. I thought it would only be him.

Q. But you did know that?

A. Certainly. I wanted him in jail because I was mad at him at the present time.

Q. Now, after you got out of jail you went back to the same place, did you not? [85]

A. Meaning, the same place?

(Testimony of Marilyn Jean Casey.)

Q. To the Trail's End? A. I did not.

Q. I thought you just said that you went to the Squadron Club and then went back to the same place?

A. No; I said nothing of the kind. I said I stayed at the Squadron Club for a week and a half and moved back to the Trail's End.

Q. After you got out of jail you went back to the same place and lived? A. I did, yes.

Q. You got to Alaska on the 30th day of June?

A. 29th or 30th, I don't remember which.

Q. And it was some time between the 3rd and the 6th of July that you were picked up for operating a bawdy house? A. It was on the 3rd.

Q. Three days later? A. That's right.

Q. And you came all the way from Texas to Alaska with a man to whom you were engaged?

A. That's correct.

Q. And you did not practice any acts of sexual intercourse with him on the way?

A. I didn't say that.

Q. I asked you specifically, Miss Casey, whether or not you did? [86]

A. I said not at that time, no.

Q. Did you? A. Yes.

Q. Where? A. In British Columbia.

Q. Do you remember where you were staying?

A. No, I don't.

Q. And then within three days after you got to Fairbanks you turned out as a prostitute, is that correct? A. That's right.

(Testimony of Marilyn Jean Casey.)

Q. It was almost immediately, was it not? You were picked up in three days. Were you picked up the first night you were out, Miss Casey?

A. The second night.

Q. Now, did you tell the FBI where that camera was?

A. I did not.

Q. Did you tell them what were on the rolls of film?

A. When they asked me I told them some pictures were taken on the way.

Q. You did not tell them ahead of time?

A. No, I did not.

Q. Does it seem strange to you, Miss Casey, that the FBI would bring in a camera with undeveloped film on it?

A. It does not, if they didn't know what was on the film.

Q. If they knew what was on it? [87]

A. I say if they didn't know.

Q. By profession you are a shake dancer?

A. That's right.

Q. Did you follow that profession in Texas?

A. I danced in Texas, yes.

Q. Where did you dance?

A. Club Showtime.

Q. Did you follow your new calling in Texas at all, Miss Casey, as a prostitute?

A. I did not.

Q. Now, you say that Mr. Thompson told you that you could run a bawdy house opening in this town?

A. He most certainly did.

Q. And that was when?

(Testimony of Marilyn Jean Casey.)

A. That was on April the 29th.

Q. Of this year? A. That's correct.

Q. That has been about two weeks ago?

A. That's right.

Q. And Miss Casey, you have been involved in several criminal cases here, have you not, in Fairbanks? A. No, I haven't.

Mr. Taylor: Just a moment, Miss Casey. We are going to object to the question, incompetent, irrelevant and immaterial and improper.

The Court: How would that be material? [88]

Mr. Stevens: Well, it was leading up to another question. If your Honor wishes the same objection, I will ask the other question anyway.

The Court: Very well.

Mr. Stevens: Withdraw that question.

Q. (By Mr. Stevens): Miss Casey, is not Mr. Taylor your attorney here in Fairbanks?

A. Is Mr. Taylor my attorney?

Q. Yes. A. That's correct.

Q. Did you talk to Mr. Taylor about what you should say on the stand today?

A. I have not.

Q. Have you ever been to Mr. Taylor's office to discuss this case? A. Not this case, no.

Q. Now, Mr. Taylor asked you yesterday about these pictures and specifically asked you whether or not they could have been taken any place, is that right? A. That's right.

(Testimony of Marilyn Jean Casey.)

Q. And you said you believed they could have been taken any place?

A. Yes, they could have.

Q. Did you testify yesterday that you bought the camera in Washington? [89]

A. I didn't say anything about Washington. I said a small town.

Q. I believe I asked you specifically was that in Washington? I will ask you again.

A. No, it wasn't in Washington.

Q. Was it on the trip from Texas to Alaska?

A. It was.

Q. The trip you made with these defendants?

A. That's right.

Q. So that by your statement that these could have been taken anywhere it could have been anywhere between Texas and Alaska?

A. That's right.

Q. And that was last year, 1953?

A. That's right.

Q. Now, did you not go over these films with Mr. Harkabus after they were developed?

A. I told him who they were.

Q. You also told him where they were taken, did you not? A. Well, it is on there.

Q. I asked you, did you tell him where they were taken? A. I did not.

Q. Did you go over them roll by roll?

A. That's right.

Q. There were four or five rolls? [90]

A. Yes, but some of them aren't there.

(Testimony of Marilyn Jean Casey.)

Q. Yes; there are two that are not there. Would you like to have those put in, too, Miss Casey?

A. I don't care.

Q. Now, you say that Mr. Harkabus suggested to you the answers for this statement, this long statement on the 6th of July?

A. Some of them, yes, I said.

Q. Did he suggest to you where you had stayed in Denver?

A. No; I told him where I had stayed.

Q. If he had been able to suggest to you, he would have told you the right place, would he not?

A. What I said was that I picked out no names of any town that are on there, with the exception of Denver, Cheyenne.

Q. In regard to Denver, did you tell him where you stayed in Denver?

A. I did.

Q. And that was to the best of your memory?

A. That's right.

Q. And did Mr. Harkabus tell you any of the places where you stayed?

A. He picked out the towns.

Q. Did he tell you the places in the towns?

A. No, because that is the only specific place I named, I believe is at Denver. [91]

Q. Did Mr. Harkabus tell you that you stopped at the Western Union to pick up a money order?

A. I told him that also.

Q. And did he tell you that you didn't recall the exact route but traveled through Cheyenne, Wyoming?

A. He picked out the route.

(Testimony of Marilyn Jean Casey.)

Q. And did he tell you where Mr. Bennett and his party stayed the night that you stayed in Denver with Mr. Kehert? A. No, he did not.

Q. Did you remember where they stayed?

A. After he got a telephone book.

Q. Afterwards then, did you tell him where you stayed? A. I did.

Q. And did he check that in the telephone book, too? A. He did.

Q. Then he didn't tell you where you stayed?

A. No.

Q. You told him? A. That's right.

Q. And if the evidence should show that that is not the right place, are you certain that that is where you stayed? A. I am.

Q. And you stayed with Mr. Kehert?

A. That's right. [92]

Q. And you were driving a Buick with an Indiana license plate? A. That's right.

Q. Did Mr. Bennett, pardon me, Mr. Harkabus suggest to you who drove across the two lines?

A. He did not.

Q. Did you believe it made a difference who drove across those two lines? A. I did not.

Q. Who drove across the various state lines?

A. I don't remember.

Q. Who drove across the line between Texas and what is it, Arkansas, or did you come up through New Mexico? A. New Mexico.

Q. Who drove across that line?

A. I was driving.

(Testimony of Marilyn Jean Casey.)

Q. Who drove across the line between New Mexico and Colorado?

A. I don't know. I don't remember.

Q. And from Colorado to Wyoming?

A. I still don't remember.

Q. But you are certain that four women drove across in the car across the two international borders?

A. Of course.

Q. Is that how you got the addresses that appear in this statement, Mr. Harkabus got them from a phone book? [93]

A. That's correct.

Q. And was that after you told him where you stayed?

A. No; I hadn't told him at the present time where I had stayed. He got the telephone book and let me look at the motels. He went down to the ACS and got a telephone book of Denver.

Q. Did you know that the case against you is still pending in the Commissioner's Court?

A. What case?

Q. The case in which you were arrested in June of last year, did you know that?

A. It was supposed to have been dropped.

Q. Who told you it was dropped?

A. Mr. Gore.

Q. Did Mr. McRoberts talk to you about this case before you signed the affidavit?

A. I don't remember. I'm not sure. He could have.

Q. Haven't you previously testified that Mr. Mc-

(Testimony of Marilyn Jean Casey.)

Roberts told you to tell the story and Mr. Harkabus told you to tell the story and Mr. Gore told you to tell the story?

A. I said it was told in their story.

Q. That was in Mr. Gore's office?

A. That was in the FBI office when the story was told.

Q. I thought you just testified this morning you were up in my office?

A. I did not. I said Mr. Gore's office. [94]

Q. I am asking you now where you were told to tell this story?

A. Up in Mr. Gore's office, as I said before.

Q. And who was there?

A. Mr. Gore, Mr. Harkabus, Mr. Worsham, and Mr. McRoberts took me in.

Q. And with all those people present they all urged you to tell a story that was not true?

A. They gave me the general idea of the story they wanted and I wanted out of jail. I mean, I didn't think it would start all this.

Q. Well, after you got out of jail and you were released for two days, were not all of your friends in jail by the time you signed the second statement?

A. They were.

Q. You knew what it was causing then, did you not?

A. Well, I thought I could straighten it out later, because (interrupted)——

Q. You would straighten it out by signing an affidavit of facts, Miss Casey?

(Testimony of Marilyn Jean Casey.)

A. That's right.

Q. Did someone threaten to put you back in jail if you didn't sign the second statement?

A. No; but how did I know you wouldn't?

Q. Mr. Thompson arrested you for being a vagrant just recently, did he not? [95]

A. He did not.

Q. Didn't he pick you up here awhile back?

A. He most certainly did not.

Q. You had some trouble with him, did you not, Miss Casey? A. I did not.

Q. None at all? Over a year?

A. That's right.

Q. Is there any reason why you would dislike Mr. Thompson? A. Several reasons, yes.

Q. What reason?

A. I dislike the whole office up here as far as that goes.

Q. What reason is that?

A. Because of the way a lot of things are handled.

Q. Is there any reason you would make this statement against Mr. Thompson?

A. There is no reason.

Q. You say then that it is the truth, is that right? A. It most certainly is the truth.

Q. Did you call Mr. Thompson at 2:00 o'clock here just about a week ago, within the last week?

A. Not within the last week, no.

Q. Did you talk to him at 2:00 o'clock in the morning recently, you made a call to him? [96]

(Testimony of Marilyn Jean Casey.)

A. On June, April the 29th.

Q. Oh, April 29th you called him at 2:00 in the morning?

A. That's right. The news on the south end was that he wanted to see me, so I called him.

Q. You knew he wanted to see you so you woke him up at 2:00 in the morning, is that right?

A. That's right.

Q. What was the conversation? Did you not tell him then that you changed your mind then and were going to tell the truth for a change?

A. No.

Q. Now, the inducement in your mind then to sign this statement, the first statement, was to get out of jail? A. That's right.

Q. What was the inducement to sign the second one? A. Afraid of going back to jail.

Q. And between the time you signed that statement and the time you appeared in any hearing in this case, did you see any of the defendants?

A. I did not.

Q. You never saw a one of them? A. No.

Q. Yet you were engaged to Wesley Kehert?

A. That's right.

Q. And you say that Mr. Kehert dropped you because you had been picked up? [97]

A. That's right.

Q. Had he not also been picked up?

A. He had, but it was, I was the one that had him picked up.

(Testimony of Marilyn Jean Casey.)

Q. Had not all the rest of the people been picked up? A. That's right.

Q. And how about Mrs. Bennett and Miss Crosby, were they not also picked up with you originally? A. With me, they were not.

Q. Very soon thereafter?

A. I don't know. I didn't pick them up.

Q. You don't know of your own knowledge?

A. No, I do not.

Q. You weren't downstairs with them?

A. Downstairs?

Q. In the jail?

A. No, because I was upstairs and they was booking me whenever they brought Miss Crosby up.

Q. But you weren't lodged in the jail at the same time downstairs? A. No, I don't believe so.

Q. What other inducement did you have to make these statements, Miss Casey?

A. Those statements, get out of jail, that's all.

Q. That's all. Did anyone tell you it was a felony to do the things that you stated were [98] done?

A. Yeah, they told me after I signed them.

Q. After you signed them? A. Yes.

Q. And before you signed the statement when you talked to Mr. Gore and all the people upstairs here in this office, the District Attorney's office, you had no idea what the inquiry was about?

A. Of course I had an idea. I had an idea what it was about.

(Testimony of Marilyn Jean Casey.)

Q. You knew then at least some of those people would get in trouble?

A. No, because I thought I could straighten it out later.

Q. Do you remember how much your bond was that was keeping you in jail? A. Yes, I do.

Q. How much was it?

A. Ten thousand five hundred.

Q. Ten thousand five hundred?

A. That's right.

Q. On a vagrancy charge?

A. That's what it was.

Q. Is that as true as all the rest of your statements here? A. Now I'm telling the truth.

Q. How long did you work at the Squadron Club, Miss Casey? [99]

A. Approximately a month and a half, and then I went to work at the Stag Club.

Q. And you haven't participated in acts of prostitution since those first two nights you were in Fairbanks? A. Yes, I have.

Q. I thought you just told me that you only worked two nights?

A. You said then. You asked me how many nights I worked before I was picked up.

Q. All right then, I ask you how long did you work as a prostitute?

A. From the 29th of June up to the 10th, whenever the trial started, whenever Mr. Thompson told me I could.

(Testimony of Marilyn Jean Casey.)

Q. Whenever Mr. Thompson told you you could start? A. That's right.

Q. You seek out advice from Mr. Thompson before you practiced prostitution?

A. No, I just wanted to make sure I wasn't picked up.

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: Could we take a recess now, your Honor?

The Court: Yes, ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 10:45 a.m., the court took a recess until 11:02 a.m., at which time it reconvened and the trial of this cause was [100] resumed.)

The Court: Counsel stipulate all members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

MARYLIAN JEAN CASEY

the witness on the stand at the time the recess was taken resumed the stand for

Recross-Examination

By Mr. Taylor:

Q. Miss Casey, I believe in response to an answer upon cross-examination by myself you said that the FBI men had talked with you every day three or four times from the time you were arrested until the time you signed this first statement?

(Testimony of Marilyn Jean Casey.)

A. Yes. That is on the same day.

Q. Were all of those conversations had at the same place? A. No, they weren't.

Q. Where did they talk to you besides in Mr. Gore's office? A. In the FBI office.

Q. And so then after you signed Plaintiff's Identification 31, which is an affidavit made before Mrs. Nordale you came back to sign that, did you?

A. Yes, I did.

Q. And was that at their orders? [101]

A. They asked me, yes.

Q. And was that also if you signed that there would be no prosecution?

A. There wasn't supposed to be.

Q. Now, was this statement by Mr. Stevens this morning the first time you knew that the vagrancy charge was still hanging over you?

A. It is. That was supposed to have been dropped.

Q. They told you that?

A. They did, yes, sir.

Q. The boys don't keep their promise then?

A. Well, no. It seems like they want to send someone not particular who.

Q. Who told you that the bond that you were being held on was a ten thousand five hundred dollar bond? A. Who told me that?

Q. Yes. A. That's what they were all at.

Q. And was that the bond that was set for you on the charge of vagrancy?

(Testimony of Marilyn Jean Casey.)

A. As far as I know, yes, sir. It was supposed to have been five hundred at first and whenever a friend of mine came up to make the bond at five hundred they put it up to ten thousand five hundred.

Q. And you were not able to get the bail then?

A. No, sir, I was not. [102]

Q. Were you advised that you could have an attorney? A. No, sir.

Q. Were you advised that anything you said could be used against you at this trial?

A. No, sir.

Mr. Stevens: Pardon me, would you read that? Was that at this trial?

Mr. Taylor: I didn't get your remark.

Mr. Stevens: I didn't make any remark. I just asked if your question was, could the evidence be used at this trial?

Mr. Taylor: Well, could it?

Mr. Stevens: You are asking the questions, Mr. Taylor.

Q. (By Mr. Taylor): Now, Miss Casey, do you know when you crossed the line from Texas into New Mexico? A. No, sir.

Q. Or from New Mexico into Colorado?

A. No, sir.

Q. Colorado into Wyoming? A. No, sir.

Q. Wyoming into Montana? A. No, sir.

Q. Isn't it a fact they have no customs office at the borders between the states? [103]

(Testimony of Marilyn Jean Casey.)

A. That's right.

Q. So the only customs office that you passed through would be the one at the Washington-Canadian border and the Canadian-Alaska border?

A. That's right.

Q. That would be the only place that you would know you would be passing into from the United States into a foreign country and from a foreign country back into the United States?

A. That's right.

Q. So you didn't know at any time when you crossed any of the state lines?

A. No, sir.

Q. Now, at the time that the FBI released you from custody after you signed these papers you stated that they were going to drop the case?

A. They did, yes.

Q. And when you were released you didn't have to put up any bail?

A. No, sir, none whatsoever.

Q. And you have been going along this far without any prosecution of that case?

A. That's right.

Q. Now, this telephone call you made to Mr. Thompson, what did you say the date was; was that recently?

A. Yes, sir, only April the 29th, approximately two o'clock in the morning. [104]

Q. And where did you catch him on the phone?

A. From the Territorial Police office.

Q. You called from there?

A. Yes, sir, I did.

(Testimony of Marilyn Jean Casey.)

Q. And where did you call him?

A. At his home where they told me I could reach him.

Q. Do you mean to tell this jury that Mr. Thompson was at home at two o'clock in the morning?

A. Yes, he was.

Q. Isn't he customarily out at South Fairbanks?

A. Yes, sir. He said he was getting rested up for the payday.

Q. Isn't that kind of unusual to find Mr. Thompson at home in bed at two in the morning?

A. Very unusual, yes.

Q. Now, did, anytime after this indictment was returned, Miss Casey, have you ever had any other officers call upon you at your own home?

A. Before I went to the indictment Mr. Harkabus and the young kid in the office, I don't know his name, a Mr. Thompson came by where I was staying.

Q. And did they talk to you then?

A. Yes, they did.

Q. And they tried to induce you to change your story?

A. Yes, they told me I had better change my story.

Q. Threatened you then? [105]

A. Well, more or less, yes.

Q. Got that attitude you will change your story or else, along that line? A. Yes.

Q. Did Mr. Stevens and Mr. McRoberts and Mr. Thompson ever come out there and talk to you,

(Testimony of Marilyn Jean Casey.)

South Fairbanks? A. No.

Q. What?

A. No. I have seen them out there in the bars.

Q. Now, at the time you slept with Mr. Kehert, did he pay you for sleeping with you?

A. He did not.

Q. And at the time that you did you were engaged to Mr. Kehert? A. Not all the time, no.

Q. I mean the time that you slept with him?

A. One time, yes, sir.

Q. When was it you became sore at Kehert and had nothing more to do with him?

A. About two days before we got here.

Q. Then do you know how long Mr. Kehert stayed around Fairbanks after you got here?

A. I have no idea.

Q. He didn't come around to see you then after the first few days then?

A. No, he sure didn't. [106]

Q. Now, at the time when you got here, the first three days that you were in Fairbanks after your arrival, did you have money and means of supporting yourself?

A. I had a little money whenever I got here.

Q. And you had money to pay the rent on your own apartment or room?

A. You mean at the Trail's End?

Q. Yes.

A. Well, he paid it for the first couple of nights for me, told me he would get me started.

Q. And then how, then after that did you pay

(Testimony of Marilyn Jean Casey.)

your own room rent? A. Yes, I did.

Q. So then the only—it only took you three days then to become a vagrant according to the Marshals' viewpoint, three days after you got here you was arrested for vagrancy? A. Yes.

Mr. Taylor: That's all, Miss Casey.

Redirect Examination

By Mr. Stevens:

Q. Miss Casey, you were arrested on the 3rd of July? A. That's right.

Q. When was the first time you saw any of these officers who questioned you about this matter?

A. Which officers, the one that picked me up or the ones that questioned me? [107]

Q. The ones that questioned you?

A. The first day I walked in the office.

Q. No, no, you were downstairs on the 3rd of July. Did you talk to the FBI before you were arrested? A. No, sir, I did not.

Q. Then your statement is that you talked to them on the 3rd of July?

A. I did not say that. I don't mean the office upstairs. I mean Mr. Gore's office and the FBI office.

Q. What I am after is when was the first time you discussed this matter with any of the officers here in Fairbanks?

A. Well, the matter was brought up when they booked me on the 3rd.

Q. You were booked on a Friday night, were you not?

(Testimony of Marilyn Jean Casey.)

A. Thursday night, because the 3rd of July if you look at the calendar was a Friday and the 3rd was on a Thursday night.

Q. Would you like to look at a calendar?

A. I would, yes.

Mr. Stevens: Would you have any objection if I show the witness the calendar for 1953, Mr. Taylor?

Mr. Taylor: She is your witness. I didn't bring her here.

A. My mistake. [108]

Q. Now, the 3rd of July was on a Friday night in 1953, was it not? A. That's right, yes.

Q. And you were brought in on that night?

A. That's right.

Q. And I guess we can all know that the 4th of July is a national holiday? A. That's right.

Q. And the next day was Sunday?

A. That's right.

Q. And you were arraigned the next morning, were you not?

A. Sure, ten thousand five hundred.

Q. When did you talk to the FBI about this case? A. Before I was ever arraigned.

Q. When was it, Friday night?

A. It was not.

Q. Was it on the 4th of July?

A. No, it wasn't

Q. Was it on Sunday after the 4th of July?

A. No, it wasn't.

Q. Was it on Monday morning then?

A. It was.

(Testimony of Marilyn Jean Casey.)

Q. And during that time, from the 3rd until the morning of the 6th were you not with Miss Crosby, the defendant in this case, downstairs? [109]

A. Well, it wasn't my idea. You had us in the same cell together.

Q. But you knew she was down there?

A. Of course I knew it.

Q. And you knew that telling this statement would get the others in trouble also?

A. Well, I wanted Kehert.

Q. You wanted Kehert; why did you tell everything that implicates Mr. Bennett?

A. Why? That's the only way I could get him.

Q. And your statement is that you only changed cars and rode with the four women at the borders of the Canadian-Alaskan border and the Canadian-American border; is that right?

A. No, I rode with the women a lot. That's the time we were all in the car.

Q. The four of you riding together and the two men riding alone? A. That's right.

Q. At those two particular times?

A. That's right, yes.

Q. Those are the two places where you know they would make records, were they not, Miss Casey?

A. I didn't know they made records. I had never been up here before.

Q. If you didn't, who did know? [110]

A. I don't know.

Q. Did you know whether Mr. Bennett had ever

(Testimony of Marilyn Jean Casey.)

been to Alaska before? A. I don't know.

Q. You knew Mr. Kehert had been to Alaska?

A. Yes.

Mr. Stevens: Your witness, Mr. Taylor.

Recross Examination

By Mr. Taylor:

Q. Were there other times when you girls all rode in the same car? A. Lots of times, yes.

Q. The time you came up you knew nothing about the formalities then of crossing from United States into Canada?

A. I did not, because it was never mentioned, Mr. Taylor.

Mr. Taylor: That's all.

Mr. Stevens: That's all, Miss Casey. Your Honor, I ask that Miss Casey be told she is still a witness in this case and to make herself available over the term of this trial.

The Court: Any objections, Mr. Taylor?

Mr. Taylor: No, your Honor.

The Court: Very well then, Miss Casey.

Mr. Stevens: We do wish her to attend.

Mr. Taylor: I assume Miss Casey is under subpoena. [111] Unless by permission of the court, she can't depart the court.

The Court: All right. You will remain around here so we can call you if we want you.

Miss Casey: You want me to wait outside?

(Witness excused.)

Mr. Stevens: Call Mr. Denike, please.

HENRY W. DENIKE

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Yeager:

Q. Will you, please, state your name to the court and the jury, please. A. Henry W. Denike.

Q. Mr. Denike, where do you live?

A. Denver, Colorado.

Q. What is your occupation, Mr. Denike?

A. Superintendent, Western Union Telegraph Company.

Q. And were you in that occupation June of 1953? A. I was.

Q. How long have you been employed by Western Union, Mr. Denike? A. Over fifty years.

Q. I wonder if you could state to the court and the jury what your official duties are?

A. I have charge of all operations of the Western Union Telegraph Company at Denver, Colorado. [112]

Q. Now, sir, in your capacity as Superintendent of Western Union office in Denver, are you required to supervise the business records?

A. Yes, I am responsible and supervise the handling of all the records and maintaining them and so forth.

Q. I wonder if you can state whether or not the law requires you to keep such records?

(Testimony of Henry W. Denike.)

A. The Federal Communications Commission orders are that we maintain such records three years on such records as I have. There is different times on different kind of records, but certain records it is three years.

Q. I would like to ask you at this time whether or not you have checked your records previous to coming to Fairbanks? A. I did.

Q. Now, I wonder if you would state whether or not you have any records involving a Wesley Kehert under your supervision? A. I have.

Q. Do you have those records with you?

A. Yes, sir.

Mr. Yeager: May I see them, sir? Mr. Clerk, I wonder if these may be marked for identification?

The Clerk: Government's Identification [113] No. 32.

(Three (3) Western Union records, namely, Money Order order, telegram and Money Order, were marked Government's Identification No. 32.)

Q. (By Mr. Yeager): Now, Mr. Denike, I hand you Government's Identification 32 and I wish you would identify that, please? A. I do.

Q. Could you identify those?

A. Yes. The records.

Q. Yes. A. Yes, I can.

Q. What are they?

A. The first blank on here is what we call a

(Testimony of Henry W. Denike.)

money order application blank. It is a form that is prepared covering the name of the payee of the money order, the address and the destination, different place, and the name of the sender of the money order and the amount is also shown on here.

Q. Is there anything else there, Mr. Denike?

A. There is an identification clause on this original application. It is signed by Oliver M. Kehert and the request was made that we ask the payee a certain question and if the payee could answer that question it would be the identification necessary.

Q. Now, I wonder if you could identify any of the others there, Mr. Denike? [114]

A. The second on here is the telegram as received at Denver, Colorado, addressed marked MOD which means Money Order Department.

Q. That's fine, Mr. Denike. At this time I wonder if you would identify the third?

A. The third is a draft that is prepared by us on one of our standard money order payments. Such a draft is prepared on all money orders paid and it shows the name of the payee and the amount and where it is from and the date on there, and it is endorsed and we give the money to the payee.

Q. Now, Mr. Denike, I wonder if you would state whether or not these records were kept in the regular course of business of Western Union?

A. We keep all these records as stated for three years under the FCC regulations.

Q. What is the, is this the original record kept under your supervision?

(Testimony of Henry W. Denike.)

A. The application on top is filed at Louisville, Kentucky, where the money originated and that was sent. I called for that, to have it sent to me. This message is our original message in our files that we keep here at all times. The Money Order draft after it is cashed it is held for a few days and then it is sent to our auditor of money order payments, and receipts, and they match the application. They match the money order draft against the application to see that the correct payment is made, the amount, etc. [115]

Q. Now, Mr. Denike, was it or was it not the regular course of business to keep such records for the Western Union?

A. I don't understand the question.

Q. You keep these in the regular course of your business at Western Union; is that correct?

A. Yes, we do. As I say, we have to keep them under government regulations.

Mr. Yeager: Your Honor, I would like to offer those documents into evidence pursuant to Title 28, Section 1732 of the United States Code.

Mr. Taylor: We object, your Honor, upon the ground incompetent, irrelevant and immaterial; proper foundation has not been laid, and they do not go to tend to prove any of the issues in this Complaint. Also object, your Honor, upon the grounds that one part of that exhibit is prepared at Louisville. I believe it was Louisville, Kentucky, and this witness would have no such knowledge to say that it is what it purports to be on its face.

(Testimony of Henry W. Denike.)

The Court: What is the relevancy of this to this case?

Mr. Yeager: Your Honor, this is a record of a transaction that took place in Western Union, between the Western Union office at Denver and the defendant, Mr. Kehert, and shows the transaction took place in Denver, Colorado, and the fact that Mr. Kehert received money, your Honor, at [116] that time, which is relevant to our question of transportation. I think it is very relevant, your Honor, and it should be admissible under the business records act.

Mr. Taylor: Your Honor, I can't see where it can be relevant, getting \$992.00 from his father as to his transportation charge or a conspiracy charge.

Mr. Yeager: I believe, your Honor, also that Marilyn Jean Casey testified that Mr. Kehert while he was in Denver entered into the Western Union office there and she believed he was short of money at that time. Therefore, your Honor, these records are very relevant to the case and should be admissible.

The Court: Well, I will permit the admission of it.

The Clerk: Government's Exhibit "A."

(Government's Identification No. 32 was received in evidence as Government's Exhibit "A.")

Q. (By Mr. Yeager): Mr. Denike, I hand you Government's Exhibit "A." I wonder if you would

(Testimony of Henry W. Denike.)

explain those fully to the court and the jury?

A. Well, each blank? You want each blank explained again?

Q. Yes, if you please.

A. The blank on top here is an application for sending a money order. It was filed in our office at Louisville, Kentucky, on June the 22nd, 1953, with our automatic date stamp [117] on it of 8:52 a.m. The application shows the money is to be paid to Wesley E. Kehert, Ranch House Hotel, Denver, Colorado. The signature on it is Oliver M. Kehert, 421 Knoblock, with a telephone 36877 and on the bottom line it says "Information for test question" and the information there shows "Mother's name Rena Elsie." The amount of this money order as shown was \$992.86, charges for handling making a total of one thousand dollars that was paid to our office at Louisville according to the records.

Q. Would you continue, if you please, with the rest of the Government's Exhibit?

A. The next message is a telegram original received by us in Denver, Colorado, dated Louisville, Kentucky, 8:52 a.m., June 22, 1953. It is addressed to MOD which is an abbreviation for Money Order Department of Denver. The first word is "Quell." It is a code word for the amount of money, together with eighty-six cents to be paid to Wesley E. Kehert with the test question Mother's name, Rena Elsie, and her address, Rena Elsie and her address Ranch House, Denver, and from Oliver M. Kehert. When

(Testimony of Henry W. Denike.)

this is received we prepared a money order draft and we show the identification on the blank, the time the money order was paid, etc., and this is what the message shows, Buick automobile, Serial 16979411, Engine Number V1500455. I am not quite certain about one number because it is not very clear. There is another notation on here. It says, "Answered the question O.K.", which refers to [118] the test question about the name of the payee's mother. It also shows the draft number and the amount that was taken.

Q. Are those markings on there, Mr. Denike, made in the regular course of business?

A. Regular course of business as a clerk in the office would pay the money order. It is on every money order we make, something similar to that. Whatever they produce. The money order draft is one of our standard drafts that is prepared for each money order payment. It shows issued at Denver, Colorado, on June 22, 1953, payable to Wesley E. Kehert, \$992.86, telegram Louisville, Kentucky, on June 22, 1953. On the back it is endorsed Wesley E. Kehert with the Western Union employee's signature symbol that is used by various clerks as the paying clerk.

Mr. Yeager: Thank you, Mr. Denike. You may take the witness, Mr. Taylor.

(Testimony of Henry W. Denike.)

Cross-Examination

By Mr. Taylor:

Q. What did you say your name was?

A. Henry W. Denike.

Q. D-e-n-i-k-e? A. Yes.

Q. Do you recognize Mr. Kehert in this courtroom?

A. No, I know nothing about the case. I don't know Mr. Kehert.

Q. You don't know then whether any of these defendants [119] are the parties named in that draft then? A. Not personally, no.

Q. Now, on this first sheet here, where did you get that, Mr. Denike?

A. Got it from our auditor of money order receipts and revenues.

Q. What is your auditor's name?

A. Matson.

Q. No, just from your memory?

A. Matson.

Q. And he signed this in any place?

A. I don't remember his signature on there anywhere.

Q. And you got this, the top sheet then considerably, a considerable time after the transaction was completed in Denver, was it not? A. Yes.

Q. And where was this transaction, where did this transaction take place in Denver?

A. It was paid at our main office, 917-17th Street.

(Testimony of Henry W. Denike.)

Q. Isn't it a fact you have quite a number of Western Union offices in Denver? A. Yes.

Q. Where is your main office?

A. 917-17th Street.

Q. Where is the Ranch House Hotel?

A. I will guess it is on South Santa Fe Avenue, on [120] the road to Colorado Springs, on the old road to Colorado Springs.

Q. Do you know a Westward Ho Motel in Denver? A. No, I don't recognize that.

Q. You didn't have any communications with Mr. Kehert at the Ranch House Hotel?

A. No.

Q. Do people sometimes in transmitting money will give a hotel as an address you can get in touch with them?

A. I don't know how the sender got the address of the Ranch House Hotel on there.

Q. And then you at your office after Mr. Kehert had answered the code question properly made out this draft for \$992.86; is that right?

A. Prepared the draft. He endorsed it and gave him the cash.

Q. And you give him the cash for it?

A. Our office give him the cash for it.

Q. Do you know who was with Mr. Kehert at the time that this transaction took place?

A. No, sir.

Q. And you don't know whether Mr. Kehert is in the courtroom at this time?

A. No, sir, I don't know who Mr. Kehert is.

(Testimony of Henry W. Denike.)

Q. But you do know that Mr. Kehert on that day had \$992.86? [121]

A. Our records show we paid him and he produced the proper identification for the money.

Mr. Taylor: That's all.

Mr. Yeager: That's all, Mr. Denike. Thank you.

Mr. Stevens: Thank you very much, Mr. Denike.

Your Honor, may we have permission of the court to release Mr. Denike to return to his home?

The Court: Yes.

(Witness excused.)

RITA A. ELLERMEIER

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Yeager:

Q. Would you state your name to the court and jury, please? A. Mrs. Rita Ellermeier.

Mr. Taylor: Just a moment, your Honor. I am going to object to the questioning of this witness upon the grounds that she has been in the courtroom while the trial has been in progress. I have been informed that she has listened to the testimony.

The Witness: Only while you were questioning the jury.

Mr. Taylor: Have you not been in here, come in here several times during, while the trial has been in progress? [122]

(Testimony of Rita A. Ellermeier.)

The Witness: No, I was just here yesterday morning.

Mr. Taylor: I withdraw my objection. Would you please state your name again, please?

The Witness: Mrs. Rita Ellermeier.

Q. (By Mr. Yeager): Where do you live, Mrs. Ellermeier? A. In Denver, Colorado.

Q. And what do you do in Denver?

A. I manage the Ranch House Motor Hotel.

Q. How long have you managed the Ranch House? A. Year and two months.

Q. Now, I wonder if you could state whether or not to the court in managing your Ranch House Motel whether you keep registration records?

A. Yes, we do, for a period of five years.

Q. I wonder if you could state whether or not you are required to keep such cards?

A. Yes, we are to my knowledge.

Q. And do you have custody and supervision of these records, Mrs. Ellermeier?

A. Yes, we do.

Q. Now, Mrs. Ellermeier, will you state whether or not you have made a search of your records before coming to Fairbanks, Alaska?

A. Yes, I did. [123]

Q. And will you state whether or not you found a registration card with the name of Mr. and Mrs. Kehert thereon? A. Yes.

Q. Do you have the card with you?

A. Yes, I do.

Mr. Yeager: May I have it, please. Clerk, may I have this marked for identification?

(Testimony of Rita A. Ellermeier.)

The Clerk: Government's Identification No. 33.

(Registration card No. 11475 was marked Government's Identification No. 33.)

Q. (By Mr. Yeager): Mrs. Ellermeier, I hand you Government's Identification 33. I wonder if you could identify that, please?

A. Yes, it is our card. Is that sufficient?

Q. What type of a card is it?

A. It is a registration card of the motel.

Q. Will you state whether or not you received such cards for persons that stay at your hotel?

A. Yes.

Mr. Taylor: Just a moment. I am going to object to any further direct examination on this, regarding this card until such time as the witness can identify one of the defendants as the person who signed that card.

Mr. Yeager: Your Honor, we are simply laying a foundation to introduce this as a business record, and I am trying to establish that it is under her control and it is [124] kept in the normal course of business, your Honor. It is not identifying the defendants at all.

Mr. Taylor: It must be connected with the defendants, your Honor, before it can be introduced in evidence.

The Court: Objection overruled.

Q. (By Mr. Yeager): Will you answer the question, please.

(Testimony of Rita A. Ellermeier.)

(The reporter read the question as follows:
“Will you state whether or not you received such cards for persons that stay at your hotel?”)

A. Yes, we do. With every person that is registered this is the time that they sign when they come in.

Q. And what do you do with those cards, Mrs. Ellermeier? A. Well, after they check out?

Q. After the card has been properly filled out?

A. Well, then it is placed in a rack according to the room that they are registered in and it is left there until the following morning when they check out or whatever day they check out.

Q. Now, would you state whether or not this is an original record kept under your supervision and custody? A. Yes, it is the original.

Q. Was it the regular course of business to keep such records in operating your hotel?

A. Yes, according to the law you have to keep them five years. [125]

Mr. Yeager: Your Honor, at this time I offer into evidence the Registration Card pursuant to Title 28, Section 1732, as a business record.

Mr. Taylor: We are going to object, your Honor. It is not an official record and it is in no way connected with any one of the defendants, no identi-

(Testimony of Rita A. Ellermeier.)

fication any one of these defendants is the person whose name appears on that card.

The Court: Objection overruled.

The Clerk: Government's Exhibit "B."

(Government's Identification No. 33 was received in evidence as Government's Exhibit "B.")

Q. (By Mr. Yeager): Mrs. Ellermeier, I hand you herewith Government's Exhibit "B," the registration card. I wonder if you could explain that to the court and the jury, please.

A. Well, the data on the card, is that what you want me to explain?

Q. What you see thereon.

A. Well, the name, Mr. and Mrs. Wesley Kehert at 421 Knoblock Avenue, Jeffersonville, Indiana. They were registered in Room 56. The date was 6-21-53. They were two in a party. The rate was \$10.00. The license number was WB8357. The make of their car was a Buick.

Q. Now, I wonder, Mrs. Ellermeier, if you state whether or not everything you put on there is done under the course of your regular business [126] there?

A. Yes, it is normal procedure.

Mr. Yeager: You may take the witness, Mr. Taylor.

(Testimony of Rita A. Ellermeier.)

Cross-Examination

By Mr. Taylor:

Q. Mrs. Ellermeier, will you look around this courtroom and state whether or not you can identify the person who made out that card?

A. I cannot.

Q. That Kehert that made out that card was registered from Indiana; is that right?

A. Yes, sir.

Q. How many rooms do you have in your hotel?

A. We now have eighty.

Q. Eighty?

A. At that time we had seventy.

Q. When were you first asked to make a search for this card, Mrs. Ellermeier?

A. Sometime in October, if I'm not mistaken. I can't—

Q. Last October? A. Yes.

Q. And were you subpoenaed to come to Fairbanks for this trial? A. Yes, I was.

Q. And when did you leave Denver?

A. Sunday.

Q. Ticket furnished by the government, [127] was it? A. Yes, when I am released.

Q. What? A. When I am released.

Q. So you don't know then, Mrs. Ellermeier, whether or not one of the defendants here is the same person that stayed in the hotel?

A. I can't say truthfully, no. I cannot state that

(Testimony of Rita A. Ellermeier.)

truthfully, no. We get hundreds of people a day. I can't identify them truthfully.

Q. So what if the name of the registrant on that day had been John Smith; do you get many John Smith's? A. No, we don't.

Q. Or John Jones once in a while somebody comes in that way? A. Not normally, no.

Q. Or William Johnson?

A. Well, we have a few that that is their correct name, yes.

Q. And if the name would have been William Johnson and you had been subpoenaed up here with a card you would have been in the same predicament you are now. You don't know whether a man named Kehert is on trial or not, do you?

A. Not truthfully, no.

Mr. Taylor: That's all.

Mr. Yeager: Just one question, I believe. [128]

Redirect Examination

By Mr. Yeager:

Q. In the normal course of your business do you check for the identity of your occupants?

A. No, we don't. Anybody that comes in, yes, if that's what you mean.

Q. Do they fill out that card themselves?

A. They do, yes.

Mr. Yeager: That's all.

Mr. Taylor: That's all.

(Testimony of Rita A. Ellermeier.)

Mr. Stevens: Thank you very much, Mrs. Ellermeier.

Mr. Yeager: Your Honor, may we excuse this witness to return to her home in Denver?

Mr. Taylor: I have no objection, your Honor.

(Witness excused.)

Mr. Yeager: Your Honor, may we have a recess at this time?

The Court: Let's see, Mr. Clerk, we have something on during the noon hour?

The Clerk: We do, your Honor, at one-thirty.

The Court: We are going to take an adjournment in a few seconds until 1:30. The jury will not be required to return until two o'clock. Make the adjournment. One moment. I would like to caution you a little during the noon hour. You should not talk about the case or the parties or to permit anyone to talk about it within your hearing. [129] Keep your minds free from an opinion as to the guilt or innocence of these defendants until the case is finally submitted to you.

The Clerk: Court is recessed until 1:30.

(Thereupon, at 12:00 noon a recess was taken until 2:00 p.m.)

Afternoon Session

(The trial of this cause was resumed at 2:00 p.m., pursuant to the noon recess.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of Court proceeded to call the roll.)

The Clerk: They are all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case?

Mr. Taylor: Defendants are ready, your Honor.

Mr. Stevens: Government is ready, your Honor.

The Court: Very well. Proceed.

RUTH E. HOFFMAN

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Yeager:

Q. Would you state your name to the court, please? A. Mrs. Ruth E. Hoffman.

Q. And where do you live, Mrs. Hoffman? [130]

A. 1535 South Broadway, Denver, Colorado, Royal Motel.

Q. And what is your occupation?

A. We own the Royal Motel.

Q. Now, in operating your hotel, Mrs. Hoffman, do you or do you not keep records of registrations?

A. Yes, sir.

Q. Do you know if you are required to keep such records? A. Yes, sir.

Q. And what requires you to keep such records?

A. The FBI requires us to keep records for five years, sir, on file at all times.

Q. And do you have the records under your supervision at the Royal Motel? A. Yes.

(Testimony of Ruth E. Hoffman.)

Q. Before coming to Fairbanks, Alaska, Mrs. Hoffman, did you make a check of your records?

A. Yes, sir.

Q. And will you state did you or did you not find there a registration made to Bennett and family?

A. Yes, sir.

Q. Do you have that registration with you?

A. Yes, sir.

Mr. Yeager: May I have it, please. Mr. Clerk, may we have this marked for identification?

The Clerk: Government's Identification [131] No. 34.

(Registration card bearing number 7507 was marked Government's Identification No. 34.)

Mr. Yeager: Would you like to see this, Mr. Taylor?

Q. (By Mr. Yeager): Now, Mrs. Hoffman, I hand you here Government's Identification 34. I wonder if you could identify that, please?

A. Yes.

Q. And what is that?

A. The registration. You want me to read it?

Q. Just explain what it is?

A. It is a registration card that we register in our guests with. We register the name, where they are from, the date, the unit they are in and the license and make of their car.

Q. And were these records kept by you in the regular course of your business?

A. Yes, sir.

Q. And I believe you have stated this before, but

(Testimony of Ruth E. Hoffman.)

is it correct that it is the regular course of your business to keep such records?

A. Yes, sir, we are required to by law.

Q. And this is the original record kept under your supervision? A. Yes.

Mr. Yeager: Your Honor, I offer this into evidence, Identification 34. [132]

Mr. Taylor: We object, your Honor, upon the grounds that it has not been connected with the offense set forth in the Indictment or with either one of the defendants.

The Court: Objection overruled. It may be admitted.

The Clerk: Government's Exhibit "C."

(Government's Identification No. 34 was received in evidence as Government's Exhibit "C.")

Mr. Taylor: I don't believe the proper foundation was laid either, your Honor, for the introduction of this exhibit.

Q. (By Mr. Yeager): Now, Mrs. Hoffman, did you have control of the motel at the June 21st, 1953?

A. No.

Q. Who did have control of that?

A. Bond E. Lane owned it. There was a manager in there, Mr. and Mrs. Richardson. We bought the place, consequently bought the records, but we didn't have control of the motel at the time.

Q. Now, will you state did you or did you not buy all the records?

(Testimony of Ruth E. Hoffman.)

A. Yes, sir, the past five years' records.

Q. And this Government's Exhibit that you hold in your hand is part of those records that you bought?

A. Yes, sir. [133]

Q. And they are now under your control?

A. Yes, sir.

Q. Now, will you, please, explain to the court and jury what that registration purports to show?

A. You mean the name on it? You want me to read the name on it or what?

Q. Yes, please.

A. J. J. Bennett, wife and family, Odessa, Texas. The date is, or the unit they stayed in was 11 and 15. The date is 6-21-53. The number in the party, four. It was a Cadillac, BB 6235.

Q. Now, Mrs. Hoffman, in the regular course of your business and operation there, do you have, do you fill those out yourself?

A. Yes, sir. The guest fills out his name, address, the make and license number on his car and we fill out the rest of it.

Mr. Yeager: Thank you. That's all. Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. You had nothing to do with making this card out, did you?

A. No, sir, we didn't even own the place at that time.

(Testimony of Ruth E. Hoffman.)

Q. And do you see Mr. Bennett or his family in this courtroom? [134]

A. I don't know Mr. Bennett. I wasn't even there. How could I?

Q. And you don't know, then, whether Mr. Bennett is on trial here is the person that stayed at the hotel?

A. I wouldn't know anything about it.

Q. What is the name of the hotel?

A. Royal Motel.

Q. Now, you stated, I believe, in response to a question by Mr. Yeager, that the FBI requires you to keep records?

A. I don't know as the FBI do, but we have to have records there that the FBI or any officer of the law can check on at any time they want to.

Q. That is your conclusion?

A. That's my own conclusion. It is a state law that we file those records.

Q. You know the FBI don't make any records?

A. I don't know who makes the records.

Q. They might try to but they don't make them. So you don't know Mr. Bennett?

A. No, I don't know Mr. Bennett. It is authentic. It was brought here because they wanted it.

Q. You were subpoenaed, were you?

A. Yes, sir.

Q. And you don't know whether this Bennett is the Bennett that stayed at your place? [135]

A. No, sir, all I know is the record is authentic.

Q. Do you know who made the record out?

(Testimony of Ruth E. Hoffman.)

A. Yes, I do.

Q. Do you know who made these notations down here?

A. No, I don't, whether he did or the clerk did.

Q. You found this in your records, did you not?

A. They were in our records.

Q. All you know is they were there?

A. Yes, sir.

Q. You don't know who made it out, who this Bennett is? A. I know the record was filed.

Q. You know that you live in Denver and are running the Royal Motel; is that right?

A. Yes, sir.

Q. That's about all you know about this case, isn't it? A. Yes, sir.

Mr. Taylor: That's all, Mrs. Hoffman.

Mr. Yeager: Your Honor, may we excuse this witness, Mrs. Hoffman, to return to Denver, Colorado?

The Court: Any objection, Mr. Taylor?

Mr. Taylor: No objection.

The Court: She may be excused.

(Witness excused.)

Mr. Stevens: Artie Reynolds, please. He is in the hall, I believe. [136]

ARTIE REYNOLDS

a witness called in behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Would you state your name, please?

A. Artie D. Reynolds.

Q. And where do you live, Mr. Reynolds?

A. Denver, Colorado.

Mr. Stevens: Would you like to use this, please, and speak right into it just like that.

The Witness: Denver, Colorado, 385 South Pennsylvania.

Mr. Taylor: Just a moment, your Honor. I am going to object to this witness testifying as he has spent considerable time in this courtroom, all this forenoon practically all the forenoon he was sitting on that seat over there. He was sitting alongside——

The Court: You were not listening?

Mr. Reynolds: Not on this trial, no, sir.

Mr. Stevens: Mr. Reynolds, were you here during the questioning of the jury?

Mr. Reynolds: Yes, sir.

Mr. Stevens: You heard the exclusionary rule?

Mr. Reynolds: Yes, sir.

Mr. Stevens: You stayed outside during the course of this trial?

Mr. Reynolds: Yes. [137]

The Court: Objection is overruled, Mr. Taylor. It doesn't appear (interrupted)——

Mr. Taylor: I saw the man sitting on the bench,

(Testimony of Artie Reynolds.)

your Honor, also the woman that testified this morning. She sat there, too, together while this testimony was taken.

The Court: The Witness said he wasn't in here during the testimony.

Mr. Reynolds: Only time I was in here was just about 11:30 on a colored lady, a trial right here. The judge gave her six months suspended sentence and \$100 fine.

Mr. Stevens: You mean 1:30, Mr. Reynolds.

Mr. Reynolds: Yes, sir, about that time.

Q. (By Mr. Stevens): Where do you work in Denver, Mr. Reynolds?

A. I work out at 49th and Lowell, tavern right now, at present.

Q. Where did you work before that?

A. 295 South Broadway, Al's Service Station.

Q. Did you work there in the month of June, 1953?

A. Yes, sir.

Q. And what were your duties there, Mr. Reynolds?

A. I was servicing automobiles.

Q. Would you state, Mr. Reynolds, if during the month of June, 1953, you saw Mr. Bennett, the defendant in this case, in Denver?

A. I saw him, and I don't know whether it was his wife and two other girls and a boy. [138]

Q. And what type of a car was he driving?

A. He was driving a Mercury, and the lady was driving a Cadillac, around a '50 or '52 model.

Q. And did you perform any service on these vehicles?

(Testimony of Artie Reynolds.)

A. I serviced the two cars on one day, and then they brought a Buick back the next day which I changed the oil and greased and put gas in it.

Q. Did you see any other members or any other people with them at that time?

A. These three, two girls and one boy.

Q. What type of vehicle did they have; do you remember?

A. I think it was a black Buick, or a dark blue. It was a late model.

Q. Did you have a conversation with Mr. Bennett at that time? A. Yeah, when he drove in.

Q. Just a moment. Did you have one, please?

A. Yes, sir.

Q. And what day was that on, do you remember?

A. That was the first day they came in. I don't remember just the exact date, but it was in the latter part of June.

Q. Was there anyone with him at that time?

A. A lady drove in in a Cadillac in the next driveway and he told me just to hold on, I could service both of them.

Q. And will you tell us the conversation that you had, please? [139]

A. Well, I serviced the Mercury first with gas and put my foot up on the back bumper and I seen it was a Texas license and, of course, I have been all over Texas and I asked him what part he was from, and he said he was from Odessa, I believe, and I have been at Odessa and, of course, after I talked to him there for awhile on that subject about Texas

(Testimony of Artie Reynolds.)

and all and he asked me where there would be a good place to stay, and I recommended a place down on South Broadway.

Mr. Stevens: Pardon me, your Honor. There is an emergency call out here. May I take it and have five minutes' recess, please?

The Court: Yes.

Mr. Yeager: Your Honor, I believe Mr. Stevens asked if we might have a five-minute recess. He has a long distance telephone call, your Honor.

The Clerk: Court is recessed for five minutes.

(Thereupon, at 2:23, the court took a recess until 2:32 p.m., at which time it reconvened and the trial of this cause was resumed.)

The Court: Counsel stipulate all members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor. Thank you, sir.

The Court: Very well. Proceed. [140]

ARTIE REYNOLDS

the witness on the stand at the time the recess was taken, resumed the stand for further direct examination:

By Mr. Stevens:

Q. Mr. Reynolds, you were telling us the conversation you had with Mr. Bennett?

A. Yes, sir. He told me he was from Odessa, Texas, and I have been around there so I asked him

(Testimony of Artie Reynolds.)

what line of work he was in and he told me he was in the oil business, so he asked me then how about a nice place to stay, and I recommended a place further down South Broadway, out on River, out on Santa Fe Drive which is out on the highway toward Albuquerque; and the next morning I was by myself and three cars drove in and I let them park there and he asked me to service the Buick, and they had been back after it after they got through eating, and so they left. That was the last time I saw them, when they come back.

Q. How many were in the three cars when they came in?

A. They were five all together, three girls and two men.

Q. Did you by any chance see a dog at that time?

A. A little dog in the Cadillac with the lady.

The Clerk: Government's Identification No. 35 and Government's Identification No. 36.

(Two (2) gasoline credit card receipts were marked Government's Identification Nos. 35 and 36, respectively.) [141]

Q. (By Mr. Stevens): Mr. Reynolds, these are Government's Identification 35 and 36. Could you identify those for us, please?

A. Well, that is my handwriting and we have a machine that stamps the credit cards like this. Al's Service Station, Standard Service.

Q. Is that the same place that you worked?

A. Yes, sir.

(Testimony of Artie Reynolds.)

Q. In Denver, Colorado?

A. In Denver, Colorado.

Q. And you believe that you made those tickets out?

A. Well, I know I did.

Q. And in which car did you put the gasoline?

A. I put the gas in the Mercury first and then in the Cadillac and gave them one ticket with the credit card here twenty-one gallons and one-tenth in both cars.

Q. And then is the other ticket for another time?

A. The next day why I serviced this Buick and changed the oil and greased the car and put a little gas in it, seven gallons, a little over.

Q. And all of the services you performed in the service station were placed on the one-charge ticket?

A. On the same ticket, not all of them. I serviced the Mercury and Cadillac the first day on the same ticket.

Q. My question really is, though, did you charge them to the same credit card through the same operation? [142]

A. Yes.

Q. All the service you performed on the three cars went to the same ticket actually?

A. No, there is two tickets here.

Q. No, I mean to the same credit card?

A. Oh, yes, same credit card.

(Testimony of Artie Reynolds.)

Cross-Examination

By Mr. Taylor:

Q. Who is the credit card in the name of?

A. Well, it is not listed here. Bennett signed the name.

Q. Well, what is the first name?

A. Well, I don't know. We have a stamping machine. We just put it in and stamp it and then the customer signs his name to it.

Q. Put on your glasses and see if it isn't W. W. Bennett?

A. W. W. Bennett.

Q. Is that right?

A. It must be. It is here on one of them.

Q. You wrote it, didn't you?

A. No, sir. He signed his name on here. I haven't got nothing on it but the amount of gas and the price.

Q. That is not Jack or John Bennett, is it?

A. It's got W. W. Bennett on here.

Q. Now, you say there was a man named Bennett and two [143] girls and another fellow came down there?

A. I said the first day they came in was Bennett and some girl in a Cadillac. The next day he brought the Buick with the other three in it.

Q. Well, when was it that there were five in the car?

A. The next day.

Q. The third day?

A. The next day. The first day they came in

(Testimony of Artie Reynolds.)

there was just two. That was Bennett in the Mercury and some lady driving the Cadillac. The next day they came in with a Buick, Cadillac and Mercury and parked them and I serviced the Buick.

Q. Now, you got me all confused. Mr. Bennett came down driving a Buick?

A. No, sir, he came in a Mercury the first day.

Q. Was there anybody in the Mercury with him?

A. No, sir.

Q. Then you say there was a Buick came down?

A. The next day.

Q. Who was in it that time?

A. I don't know who was in the Buick. Who was in the Mercury or the Cadillac. They came in, said he had another car. They were parked out there at the parking lot, asked me to service the Buick.

Q. Do you see any of the people in this courtroom?

A. Two, yes. [144]

Q. Which two?

A. This fellow here and this slender girl sitting back there. She was driving the Cadillac.

Q. Do you know who she was?

A. I don't know. No, sir, I don't know.

Q. You don't know whether or not that is Mrs. Bennett?

A. I don't know.

Q. Mr. Bennett introduce any of these girls to you?

A. No, sir.

Q. Were you subpoenaed to come up here?

A. Yes, sir.

Q. To testify that these people got some gasoline in Denver?

(Testimony of Artie Reynolds.)

A. Well, I don't know. They just handed me the paper and told me to be here at ten o'clock Monday morning. Didn't tell me what it was for. They told me, too, it was about (interrupted)——

Q. Did you—were you to bring any records?

A. No, sir.

Q. How did you happen to have those two slips with you?

A. I didn't have them. They were here.

Q. What?

A. The prosecuting attorney just now gave them to me. First time I seen them.

Mr. Taylor: That's all. [145]

Mr. Stevens: Just one moment, please.

Redirect Examination

By Mr. Stevens:

Q. Did you see these cars leave the station, Mr. Reynolds?

A. No, sir. I was there by myself and I was pretty busy. I didn't see them when they left.

Mr. Stevens: Thank you very much. Your witness, Mr. Taylor.

Mr. Taylor: No further questions.

Mr. Stevens: Thank you, Mr. Reynolds. Your Honor, may we ask that Mr. Reynolds be excused. Do you have any objections, Mr. Taylor?

Mr. Taylor: No objections.

The Court: He may be excused.

(Witness excused.)

Mr. Stevens: Mr. Burton, please.

WILLIAM HENRY BURTON

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. William Henry Burton.

Q. Where do you reside, Mr. Burton?

A. Oliver, B. C., Canada. [146]

Q. And what is your occupation?

A. Canadian Immigration Inspector.

Q. And where are you stationed?

A. Permanently at Osoyoos, B. C., Canada.

Q. Would you tell us whether or not that station is on the Canadian-American border?

A. It is.

Q. And what are your duties as Immigration Inspector?

A. Enforce the provisions of the Canadian Immigration Act.

Q. And in the course of your duties do you check vehicles as they travel from the American side of the border through the Canadian side?

A. Yes, sir.

Q. Were you working at Osoyoos in June of 1953?

A. I was.

Q. Did you have occasion in June of 1953, to inspect the vehicle of or a vehicle driven by Mr. Bennett, the defendant in this case?

A. I did.

(Testimony of William Henry Burton.)

Q. Do you remember when that was, Mr. Burton?
A. The date or the time of the day?

Q. The date?

A. It was somewhere around the 23rd, 24th of June.

Q. Who was with Mr. Bennett at the time?

A. No one. [147]

Q. Do you remember the time?

A. It was about twenty minutes to four.

Q. Did you notice whether there was anything else in the car with him at the time?

A. Yes, he had other items in the car with him.

Q. Did you notice whether or not he had a dog in the car with him?
A. He did.

Q. And what type of dog was that, do you know?

A. It was a small, I believe a Mexican Chihuahuas.

Q. Did you ask him any questions at the time he made entry to your country, Mr. Burton?

A. I did.

Q. And after asking him these questions, what did you do?

A. I admitted Mr. Bennett in transit to Alaska.

Q. Did you notice any other cars at the border at the time you checked Mr. Bennett's car?

A. Yes, sir, I did.

Q. And where were these cars when you were checking Mr. Bennett's car?

A. They were also at the Canadian-American Immigration Station at Osoyoos, but behind Mr. Bennett.

(Testimony of William Henry Burton.)

Q. Did you notice what type of cars they were?

A. One was a Cadillac and the other was a Mercury, hard-top. [148]

Q. Did you have occasion to check those vehicles also? A. No, sir.

Q. Could you tell us why you did not check those vehicles, too?

A. Well, four o'clock is the time I come off shift, and that was the last car I checked that night was Mr. Bennett's.

Q. Did you see Mr. Bennett after you left your station at four o'clock? A. Yes, sir.

Q. And where did you see him?

A. Approximately five miles south, five miles north of the international boundary.

Q. And what happened, what attracted your attention to Mr. Bennett?

A. Well, the excessive speed of the vehicles approaching behind me and passing me was the first thing that attracted my attention.

Q. By vehicles, what vehicles passed you?

A. The three. There were three vehicles in the procession, the Cadillac of Mr. Bennett's, a Buick, and a Mercury, hard-top.

Q. And what did these vehicles do; did you say they passed? A. They passed me, yes, sir.

Q. And what did you do at that time? [149]

A. Well, out of curiosity I attempted just to see how fast they were going, and I got up to seventy miles an hour and I stopped, slowed down at that point.

(Testimony of William Henry Burton.)

Q. Did you see these vehicles again?

A. Yes, sir.

Q. When did you see them?

A. Approximately fifteen miles north of the international boundary stopped on the roadside.

Q. And were all three of the vehicles stopped at the side of the road? A. They were.

Q. Did you notice any of the occupants at that time? A. Yes, sir, I did.

Q. What were they doing?

A. Mr. Bennett was talking to the other occupants of the other two cars.

Q. And what did you do then, Mr. Burton?

A. Well, I passed them and I proceeded to my home at Oliver.

Q. And did you see those people again after that?

A. Yes, sir, when they passed me again when I stopped at my gate.

Q. Did you observe the occupants of the other vehicles at all; could you tell us how many individuals were in each of the other vehicles?

A. One in the Buick and four in the Cadillac, in the Mercury hard-top. [150]

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. You say you didn't check the other two cars?

A. No, sir, I did not.

(Testimony of William Henry Burton.)

Q. Just the one Mr. Bennett was in?

A. That's right, sir.

Q. What does that check consist of?

A. Well, sir, that I am afraid that is a provision under the Canadian Immigration Act and as an Immigration Inspector I am now allowed to actually divulge it.

Q. What do you do?

A. Case of examining the person seeking admission to Canada.

Q. Just a little identification; is that about right?

A. You identify the person.

Q. They produce identification that they are the person they claim to be, do they not? A. Yes.

Q. And who checked the other two cars?

A. I have no idea, sir.

Q. You see any of the occupants of those other cars in the room? A. Of the other cars?

Q. Yes.

A. I couldn't identify them, sir. [151]

Q. And do you recognize Mr. Bennett in this courtroom? A. I think so, sir.

Q. Would you point him out?

A. I think that gentleman sitting there is Mr. Bennett.

Q. You just think it is?

A. Well, that (interrupted)——

Q. Do you remember seeing the other man at the end of the table? A. No, sir.

Q. Could that have been Mr. Bennett? Now,

(Testimony of William Henry Burton.)

look at both of them and tell me which is Mr. Bennett?

A. Well, that one I feel sure that that is Mr. Bennett.

Q. You are not absolutely sure though, are you?

A. Well, from my identification I would say so, sir.

Q. Now, you say that was four o'clock in the afternoon. What day of the week was it that they went through there?

A. That I couldn't say, sir.

Q. You don't know the day of the month?

A. No, sir.

Q. Don't know the day of the week?

A. No, sir.

Q. You know the year? A. 1953, sir.

Q. Oh, it was, but you know it was four o'clock in the afternoon? [152] A. I do, sir.

Q. You know what month it was?

A. June, sir.

Q. You are pretty sure it was June?

A. Yes, sir.

Q. Couldn't have been July? A. No, sir.

Q. Now, what makes you so sure it was June?

A. Well, it certainly couldn't have been July, sir, because I purchased a brand new car in the first of July and I still had my old car at that time, so it would have to be in June.

Q. How about May? A. No, sir.

Q. You have the old car in May?

A. Yes, sir.

(Testimony of William Henry Burton.)

Q. Would your new car make seventy miles an hour?

A. I wouldn't do it at that time, sir.

Q. You subpoenaed to appear up here, Mr. Burton?

A. Yes, sir.

Q. Now, the fact that that was in June when you got notice to come up here, Mr. Burton, was you required to refresh your memory as to time of Mr. Bennett passing through the customs in June of 1953?

A. Required to what, sir?

Q. To refresh your memory as to Mr. Bennett's passing through sometime in June, latter part of June? [153]

A. Well, I, myself, in my own memory I checked back.

Q. I mean were you requested when you were to come up here to refresh your memory?

A. Not by any of the members of the United States Justice Department, sir.

Q. How did you happen then to come up here without knowing what you were coming up for?

A. Well, under the subpoena, sir.

Q. And was anything said to you or written to you about who was on duty at the time that Mr. Bennett passed through?

A. Well, not from this department, sir.

Q. Well, from what department did you get it from?

A. I was asked if I was on duty. There was nothing—yes, I was asked if I was on duty when Mr. Bennett came through, yes, sir.

(Testimony of William Henry Burton.)

Q. So you refresh yourself then from the record, refreshed your mind from the record that Mr. Bennett went through at a certain time in July or in June? A. In June.

Q. In June, that's right? A. Yes, sir.

Q. Before you got the new car?

A. Yes, sir.

Q. Still had the old one?

A. Yes, sir. [154]

Q. How do you pronounce the name of that town? A. Osoyoos.

Q. How do you spell it? A. O-s-o-y-o-o-s.

Q. Is that really a town?

A. There is a town there, sir, yes, sir.

Q. You live in it? A. Not right now, sir.

Q. That's right on the border?

A. Two miles north.

Q. Is that from the Washington, from the State of Washington?

A. That's from the international boundary.

Q. Yeah, at Washington, between Washington and Canada? A. Yes, sir.

Q. Now, when you went on up the highway after you passed these three cars on the road, the next time you saw them they passed you again?

A. Yes, sir.

Q. And what order were the cars when they passed you at that time?

(Testimony of William Henry Burton.)

A. Mr. Bennett, the Cadillac was leading, the Buick, and then the Mercury.

Q. Who was driving the Cadillac?

A. Mr. Bennett, sir.

Q. Who was driving the Buick? [155]

A. Well, I couldn't say, sir, as not having passed these people through Immigration. The only thing from knowledge would be Mr. Kehert.

Q. Mr. who? A. Kehert.

Q. Did you pass Mr. Kehert through the customs? A. No, sir.

Q. You mean Mr. Bennett?

A. I passed Mr. Bennett, but the other two cars I had nothing to do with at the international boundary or afterwards.

Q. Where did Mr. Kehert come into your mind now? How did you happen to use the word Kehert? Somebody tell you that they are trying to convict somebody named Kehert? A. No, sir.

Q. Where did you get that name?

A. I don't know.

Q. Where did you ever hear that name before?

A. The word Keherts or Kehert?

Q. You said it; what is the word?

A. I used the word, Kehert.

Q. Where did you first use that name?

A. That isn't the one I meant, sir.

(Testimony of William Henry Burton.)

Q. Who did you mean? A. Kehert.

Q. Who is Kehert? [156]

A. He is one of the people involved in this trial, but I have no idea who.

Q. And where did you first hear the word?

A. On my subpoena,

Q. Oh, on your subpoena. So you don't know which is Mr. Kehert and which one is Bennett?

A. I think I know Bennett.

Mr. Taylor: I think that's all.

Redirect Examination

By Mr. Stevens:

Q. Mr. Burton, how do you happen to remember this transaction?

A. Well, through the sequence of events that happened, sir. It is most unusual that something like that should occur as I have stated here.

Q. And did you at the time become inquisitive concerning these cars? A. Yes, sir.

Q. What did you do concerning those cars?

A. Oh, I took the license numbers down, sir.

Q. And do you still have those license numbers?

A. No, sir.

Q. And when were you first contacted concerning this by the United States Government, Mr. Burton? A. You mean this time, or the first?

Q. Originally? [157]

A. Originally. It was about late August or early September, I believe, of 1953.

(Testimony of William Henry Burton.)

Q. And did you make a record of your observations at that time? A. Yes, sir.

Mr. Stevens: Your witness, Mr. Taylor.

Recross-Examination

By Mr. Taylor:

Q. Mr. Burton, did a man named Harkabus who claimed to be an FBI man come through there about August and question you about this matter?

A. No, sir.

Q. Who talked to you about it?

A. Mr. * * * gee, I don't know his, I forget his name, sir.

Q. What official capacity did he occupy?

A. A member of the Federal Bureau of Investigation.

Q. Mr. Worsham? A. No, sir.

Q. Mr. Sullivan? A. No, sir.

Q. Edgar Hoover? A. No, sir.

Q. Did he show you his credentials?

A. Yes, sir.

Mr. Taylor: That's all. [158]

Mr. Stevens: Thank you very much, Mr. Burton. Do you have any objection to the government's excusing Mr. Burton?

Mr. Taylor: No objection.

Mr. Stevens: With your permission, your Honor.

The Court: He may be excused then.

(Witness excused.)

Mr. Stevens: Mr. Taylor, would you have any objection to Mr. Burton watching the proceedings in United States Court?

Mr. Taylor: I have no objection, no.

Mr. Stevens: Vern Murphy, please.

VERN V. MURPHY

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Vern V. Murphy.

Q. Where do you live, Mr. Murphy?

A. Trail's End Motel.

Q. Is that in Fairbanks, Alaska?

A. It is in South Fairbanks.

Q. Do you know Wesley Kehert?

A. Yes, I do.

Q. How long have you known Wesley [159]
Kehert? A. Since 1951.

Q. And where did you meet him, please?

A. At my motel.

Q. Were you connected in business at all with
Mr. Kehert at that time? A. No, sir.

Q. Did you enter into any type of enterprise
with him at that time? A. No, sir, I didn't.

Q. Calling your attention to August of 1951, did
you know Wesley Kehert then? A. Yes, sir.

Q. Did you ever know him as Steve?

(Testimony of Vern V. Murphy.)

A. Yes, sir.

Q. And in August of 1951 did you prepare to conduct any type of business with him?

Mr. Taylor: Just a moment, your Honor, I am going to object upon the grounds that anything that transpired in 1951, I can't see where it is relevant or material to the issues in this. The question is leading also. We are going to object to it.

The Court: Just what is the reason for it?

Mr. Stevens: I will be glad to make an offer of proof, your Honor.

(The following proceedings were had out of the hearing of the jury.) [160]

Mr. Stevens: Your Honor, the government's offer of proof is that in 1951 Mr. Kehert and Mr. Murphy, who is the witness, bought a Quonset Hut and they set it up beside the Trail's End Motel and that this was set up for the purpose of prostitution and that again in 1953 when Mr. Kehert returned here he put Miss Casey into the same Trail's End Motel for the purpose of prostitution.

Mr. Taylor: I think anything that transpired in 1951 would not be—— (Interrupted.)

The Court: Objection overruled.

(The following proceedings were had in the hearing of the jury.)

Mr. Stevens: Would you read the question, please?

(Testimony of Vern V. Murphy.)

(The reporter then read the question as follows: "And in August of 1951 did you prepare to conduct any type of business with him.")

A. We prepared to, yes.

Q. (By Mr. Stevens): And what did you do to prepare for this business?

A. What did we do?

Q. Yes.

A. Well, we started to fix the interior of a building.

Q. What type of building was it, Mr. Murphy?

A. It was a Quonset Hut.

Q. And where was that Quonset Hut located?

A. Behind the motel. [161]

Q. Is that the Trail's Inn Motel or Trail's End?

A. Trail's End.

Q. And how did you remodel this Quonset Hut?

A. Well, we had a bar and a lunch counter in the front and two tables and four rooms

Q. And what type of rooms were these?

A. Well, they were sleeping rooms.

Q. And what was the purpose of fixing up this Quonset Hut?

A. Well, at that time it was for the purpose of operating a bawdy house.

Q. Now, did you meet Mr. Kehert again this year, or last year, in 1953? A. Yes, sir.

Q. And do you remember approximately when it was, please?

A. Approximately the first of July.

Q. And where did you see him?

(Testimony of Vern V. Murphy.)

A. At the motel office.

Q. Was he alone? A. Yes, sir.

Q. And do you remember approximately what time it was? A. Around noon.

Q. And did Mr. Kehert ask you a question at that time? A. He asked me——

Q. Or did you have a conversation at that [162] time? A. He asked me if I had a vacancy.

Q. And by that did he mean in your Trail's End Motel? A. In the motel, that's right.

Q. And how many people did he ask if you had a vacancy for?

A. He didn't, just asked me if I had a vacancy.

Q. And did you have one, Mr. Murphy?

A. Yes, sir.

Q. And did Mr. Kehert engage that vacancy?

A. Yes, sir.

Q. And who moved into that vacant room?

A. As far as I know, Mr. Kehert did.

Q. Did you ever see a blonde girl known as Marilyn Jean Casey?

Mr. Taylor: Just a moment. We are going to object to a leading question, your Honor.

The Court: Leading. It is leading. I will sustain the objection.

Q. (By Mr. Stevens): How long did Mr. Kehert rent that cabin, Mr. Murphy?

A. Approximately three days.

Q. And what happened at the end of the three days?

(Testimony of Vern V. Murphy.)

A. Well, I heard that they were picked up or there was a raid of some kind.

Mr. Taylor: I didn't get that answer. [163]

Mr. Murphy: I heard that they just left, had been picked up. I read it in the paper. Different people had told me they had been picked up on some charge.

Q. (By Mr. Stevens): And by that, do you mean the occupants of the room that you had rented?

A. As far as I am concerned, there was no occupants, Mr. Stevens. It was just Mr. Kehert that rented the cabin.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Now, Mr. Murphy, how long you been in business at the Trail's End Motel?

A. Since '49, December of '49.

Q. And then you say in 1951 you fixed this Quonset up as a bar, you say there was a bar?

A. Yes, sir.

Q. And a lunch counter? A. Yes, sir.

Q. And some rooms in the back?

A. Separate, yeah.

Q. Now, was those rooms also sleeping rooms?

A. Yes, sir, they were.

Q. And at the time you fixed it up, why you had in mind then also possibly people use it for assignation?

A. Yes. [164]

(Testimony of Vern V. Murphy.)

Q. Was it ever used for that?

A. No, absolutely no.

Q. So the intentions that you had at that time were never fulfilled? A. No, sir.

Q. So then Mr. Kehert came there alone and rented a room in that same building in 1953?

A. In 1953 he rented a cabin, number 12, in the motel.

Q. Oh, it was a cabin? A. Yes, sir.

Q. And not in the Quonset Hut?

A. Yes, sir.

Q. You say he stayed there about three days?

A. Yes.

Q. Then you heard he had been picked up by the police? A. Yes.

Q. Did you rerent the cabin then to somebody else? A. I did, yes.

Q. Do you work in any of your operations out there, Mr. Murphy, around your restaurant, or—

A. Well, I just operate the motel. I leased the restaurant building.

Q. And in '51 did you have the restaurant leased?

A. No, I operated the restaurant then.

Q. You operated it yourself?

A. Yes. [165]

Mr. Taylor: I believe that's all.

(Testimony of Vern V. Murphy.)

Redirect Examination

By Mr. Stevens:

Q. Mr. Murphy, did you see Mr. Bennett at your motel in June of 1953?

A. No, sir, I did not, not Mr. Bennett. You mean by that the first part of July when I seen Mr. Kehert?

Q. Well, anytime around in that period of time did he come there to see Mr. Kehert at all?

A. No, I didn't see Mr. Bennett at all.

Q. And did you see Mr. Kehert staying in the cabin, number 12?

A. I didn't see anyone there at all. I didn't see anyone come or go in that cabin.

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: I'm all through with him. That's all, Mr. Murphy.

(Witness excused.)

Mr. Stevens: May we have the recess, your Honor.

The Court: Ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 3:00 p.m., the court took a recess until 3:10 p.m., at which time it reconvened and the trial of this cause was resumed.)

The Court: Counsel stipulate all members of the jury are present? [166]

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

SILAS M. PACKARD

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Yeager:

Q. State your name to the court and jury, please. A. Silas M. Packard.

Q. What is your address, Mr. Packard?

A. Tok Junction, Alaska.

Q. Do you reside there? A. Yes, sir.

Q. What is your occupation, Mr. Packard?

A. U. S. Immigration Inspector.

Q. Are you, can you state whether or not you are employed by the Immigration Service of the United States? A. I am.

Q. How long have you been so employed?

A. Let's see, twenty, twenty-three years.

Q. In what, in this position I wonder if you could state if any, what your duties are?

A. To examine people entering Alaska from Canada at the present post.

Q. As a part of your official duties are you required to make reports on persons that go through your station at Tok, Mr. Packard? [167]

A. I am.

Q. Do you have such records under your control and custody? A. Yes, sir.

Q. Do you know who requires you to keep such records?

A. My bureau, the Department of Immigration and Naturalization, and we also keep them for the

(Testimony of Silas M. Packard.)

Customs Service. It is a joint office, Customs and Immigration

Q. Now, Mr. Packard, would you or would you not have such records for June of 1953?

A. I have them with me, sir.

Q. And have you made a search through those records, Mr. Packard?

A. Yes, sir.

Q. And do those records disclose the automobiles that pass through and the drivers of such automobiles on June of 1953?

A. Yes, sir.

Q. I wonder if I may have them, please.

A. This is the whole June record.

Q. Now, Mr. Packard, you have the original records available; is that correct?

A. Yes, sir, I have.

Q. Now, will you state whether or not you have made an official copy of those records?

A. I have an official copy that I made here for one day, for a portion of a day on June 28th. [168]

Q. And is that correct with the original copy?

A. Yes, sir.

Q. And is that copy certified?

A. Yes, sir. I have signed the certification.

The Clerk: Government's Identification No. 37.

(Certified copy of Page 62 of the records of the United States Immigration and Customs Station, Tok Junction, of June 28, 1953, was marked "Government's Identification No. 37.")

Q. (By Mr. Yeager): Mr. Packard, I hand you

(Testimony of Silas M. Packard.)

Government's Identification 37; would you identify that, please?

A. This is a portion, a page from a, a copy of a page from our records of June 28, 1953, at the port of Tok Junction.

Q. And you keep those records under your control and supervision; is that correct?

A. Yes, sir.

Q. And these records are kept in the regular course of business? A. Yes, sir.

Q. And they are kept under your control and supervision, is that correct, sir?

A. Mine and another officer out there.

Mr. Yeager: Your Honor, at this time I would like to offer this into evidence under Title 28, Section 1732.

Mr. Taylor: We are going to object, your Honor, upon the grounds that the proper offer has not been made. I [169] think the proper offer is to first introduce the original and substitute a copy. When the original is in court the copy can be substituted for the original. I think to save doing that I would stipulate that you could just, stipulate that page and then substitute the copy without unbinding it.

Mr. Yeager: Would you mark that for identification? That is the original.

(The original record, from which Government's Identification No. 37 was taken, was also marked Government's Identification No. 37.)

(Testimony of Silas M. Packard.)

Q. (By Mr. Yeager): Mr. Packard, I here hand you Government's Identification 37 substituted for the other Identification I showed you; would you identify that, please?

A. This is a portion of our June 28, 1953, record of vehicles and drivers entering at the port of Tok Junction, Alaska.

Q. And is that your original entry?

A. Yes, sir.

Mr. Yeager: Your Honor, at this time I offer Government's Identification 37, the original.

Mr. Taylor: No objection. If the court please, I am going to withdraw my "no objection" and make an objection until it is shown whose handwriting that is in. That is a penciled copy. I would like to know who wrote it.

Mr. Yeager: This is offered as a business record. I don't believe that is necessary to be shown to be admissible. [170]

The Court: Proceed.

Mr. Yeager: May it be admitted, your Honor?

The Court: Well, I think you had better make your offer and let him put in his objections first.

Mr. Yeager: Your Honor, I make an offer of Identification 37.

Mr. Taylor: I object upon the grounds that the proper foundation has not been laid for the introduction of it because it has not been shown who made that record.

Mr. Yeager: Your Honor, this is a business record made under the supervision and control of Mr.

(Testimony of Silas M. Packard.)

Packard here. Made in the regular course of business.

The Court: This Identification is the original record?

Mr. Yeager: That's correct, your Honor.

Mr. Taylor: It is handwriting. I think we should know who the handwriting is.

The Court: It may be admitted.

The Clerk: Government's Identification—Government's Exhibit "D."

(Government's Identification No. 37, the original record, was received in evidence as Government's Exhibit "D.")

Q. (By Mr. Yeager): Mr. Packard, I hand you Government's Exhibit "D"; I wonder if you could state the persons and the automobiles that passed through your border in the latter part of that day? [171]

A. I can from the record here, sir. You wish me to read them off?

Q. Yes.

A. Well, this part is the part that I kept from here down.

Q. Would you read the part that you kept, Mr. Packard? A. All names?

The Court: There is no use to read all of those names, just the one you are interested in.

Q. (By Mr. Yeager): No, the ones whose names appear hereon at the bottom, Bennett, Kehert and Bennett.

(Testimony of Silas M. Packard.)

Mr. Taylor: Why don't you be sworn and testify, Mr. Yeager?

The Court: Proceed.

Q. (By Mr. Yeager): Proceed.

A. There was a Texas car, license BU-6235, four-door Cadillac driven by James J. Bennett, and an Indiana licensed car, WB-4848, Buick, two-door, driven by Wesley Kehert. No other passengers in either of those cars. Then there is a Texas licensed car, KS-7118, a Mercury coupe driven by Fern Bennett with three other passengers.

Q. Now, will you state whether or not, Mr. Packard, that is the normal procedure to ascertain who is driving the vehicles at your border? [172]

A. Yes, sir. We always do that, and we interview all of the other members of the, other passengers in the vehicle at the time, but we only keep the names of drivers.

Q. The others aside from the drivers, were they men or women?

A. They were women in the one car.

Q. All women?

A. All women, yes, sir.

Mr. Yeager: You may take the witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Whose request was the search of the records made, Mr. Packard?

A. At the, the request came with a, when I received the subpoena.

(Testimony of Silas M. Packard.)

Q. Is there occasions in which cars come through at night when the station is not open, Mr. Packard?

A. I presume it could happen. That would be an illegal entry if they did that, but——

Q. You mean if they come through at night and if you weren't there that they would have to stay until you got back?

A. They are required by law to wait until we open in the morning. In the morning there are a number——

Q. Do you have a sign there that they have to wait? A. Yes, sir.

Q. Where is that sign? [173]

A. There is about three signs on the front of the office, one facing two different ways.

Q. Now, when you examined these cars, or the occupants of the cars when they came through you took the number of the cars, didn't you?

A. Yes, sir.

Q. And the Cadillac, Mr. Bennett was driving that car, is that right? A. Yes, sir.

Q. The Buick was driven by Mr. Kehert?

A. Yes, sir.

Q. Now, where were those men at the time that you were talking to them?

A. In the office there.

Q. They weren't under the, back of the wheel then, of the car?

A. They stopped in front of the office and came from behind the wheel into the office. They are required to come in with the car papers.

(Testimony of Silas M. Packard.)

Q. And did you see these four women get out of the car? A. Yes, sir.

Q. And do you see in this courtroom the driver of the car in which the four women were in, would you——

A. I am not sure that I would remember definitely. We pass so many thousand people, probably a familiar face. Whether I would identify the person, I'm not sure. [174]

Q. And did these cars drive up there to the station just about simultaneously, one after the other?

A. Yes, sir.

Q. And the drivers all got out at the same time?

A. Not quite. The men were slightly ahead of the women. I remember that because we have one other car sandwiched in between, and they stopped and talked, stopped afterward when it come, got there, and talked a bit.

Q. And what was you doing at the time that the car with the women drove up?

A. Well, there was one other car cleared in between. I presume I was talking to the people in that other car when this one pulled up, but we watch all cars as they pull up. We have windows in front there. It is a practice to observe what is going on.

Q. And you saw four girls get out of the car and come toward your office; is that right?

A. Yes, sir.

Q. And then did Mrs. Bennett say that she was driving the Mercury?

(Testimony of Silas M. Packard.)

A. Well, I cannot remember just what she told me at the time, but from my record I have her name down as the driver, so from that she must have told me she was driving.

Q. It might have been one of the other girls driving for that matter, it didn't make any difference.

A. If the owner was along in this case in her name, we would put her name down. [175]

Q. Does a Carrol Ward show on your slip there?

A. No, sir. We do not keep only the names of either the owner or the driver. The one person, one name.

Q. Oh, Carol Ward didn't tell you then that she was the owner of the car? A. No, sir.

Q. If Mrs. Bennett said that she was driving it?

A. I presume she was driving it. I know that the car was evidently in her name. She was either the driver or the, it was registered in her name.

Q. You usually put the owner's name down rather than who happened to be driving it?

A. We would put the owner's name down if the owner was with the car, but if the owner was not with the car, we would put down the name of the person who had the care of the car.

Q. Then, if Fern Bennett claimed the ownership of that car, she would be the name you would put down?

A. Yes, sir, providing she showed the papers in her name for the vehicle.

Q. That had a Texas license on, did it not?

(Testimony of Silas M. Packard.)

A. Yes, sir, on the Mercury.

Mr. Taylor: I think that's all, Mr. Packard.

Redirect Examination

By Mr. Yeager:

Q. I here hand you Government's Exhibit "D," the original from your records; can you ascertain from those records what time of day they passed through your station? [176]

A. From the time of it, it would be very close to four o'clock. We do not keep the time, but I can tell from when we changed shifts, and I started keeping records, and that was at three, and this wasn't too long after that. It would have been close to four o'clock.

Q. Now, Mr. Packard, what do you ask people passing through there to produce for identification as to ownership of cars?

A. The registration or the state registration or title for the vehicle.

Q. Now, Mr. Packard, I wonder if you would state to the court and the jury whether or not you can identify any of the persons so listed there?

A. I can identify the faces of some of them, I believe. As to which one is which I'm not so sure any more. It has been quite a while ago, and at the time I didn't have any reason for attempting to remember them.

Q. Now, Mr. Packard, I direct your attention to the far end of the counsel table; do either one of those faces look familiar to you? A. Yes, sir.

(Testimony of Silas M. Packard.)

Q. Which one in particular, if any, Mr. Packard?

A. The gentleman with the gray suit there.

The Court: Where is he designating?

Mr. Packard: The gentleman right out in front of me here with the pens in his coat, Mr. Bennett. [177]

The Court: Is that the man?

Mr. Packard: Yes, sir.

The Court: Who do you recognize him as?

Mr. Packard: I believe that is Mr. Bennett.

Mr. Yeager: That's all, Mr. Packard.

Recross-Examination

By Mr. Taylor:

Q. If Mrs. Bennett showed you a Texas title to that car, you would put her down as the owner, would you?

A. If the title was, you mean if the title was in her name, yes, sir.

Q. Irregardless of who was driving it when it arrived at the station?

A. If she was along with the car I would put her name down.

Q. Do you recognize Mrs. Bennett in the court room?

A. Well, I'm not sure that I would now. It has been quite awhile.

Mr. Taylor: Well, we will skip it then. That's all.

(Testimony of Silas M. Packard.)

Redirect Examination

By Mr. Yeager:

Q. Just a moment, Mr. Packard. If they were pointed out to you, do you think you could recognize them?

A. Well, I wouldn't be too sure. Like I say at the time there was no particular reason for attempting to remember them and we were checking in sometimes a couple hundred people a day at that time of year. [178]

Q. It may be possible; is that correct?

A. It might be possible, but I wouldn't be too certain.

Q. Mr. Packard, I direct your attention—— (Interrupted.)

Mr. Taylor: Just a moment, your Honor. I object to any pointing out. We are not going to have the District Attorney testify in this case. If he wants to get five or six people here and line them up and let this man pick them out.

The Court: Objection overruled. You can designate one of them and they can stand up so we can see who you are talking about.

Mr. Yeager: Will the defendant Fern Bennett stand, please.

Q. (By Mr. Yeager): Do you recognize that person?

A. I do. I wouldn't have been too sure, but I also checked them in later in the fall. I remember that.

Q. Miss Crosby stand, please. Would you state

(Testimony of Silas M. Packard.)

whether or not to the court you recognize this woman, Mr. Packard?

A. I am not sure. She looks familiar, but I'm not sure.

Mr. Yeager: Thank you, Mr. Packard.

Mr. Taylor: That's all.

Mr. Yeager: Your Honor, may this witness be released to continue his duties?

Mr. Taylor: No objection. [179]

The Court: Yes, he may be released.

(Witness excused.)

Mr. Yeager: Thank you, your Honor.

The Court: How about, did you put in originals?

Mr. Stevens: Your Honor, we would like to ask Mr. Taylor's stipulation that we substitute this certified copy for the original and have the original returned to Tok.

Mr. Taylor: I have no objection.

The Court: Very well. It may be so substituted.

Mr. Stevens: Mr. Wyman, please.

EARL WYMAN

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Earl Wyman.

Q. And where do you reside, Mr. Wyman?

A. 316 Bryant Street, Fairbanks.

(Testimony of Earl Wyman.)

Q. And do you have a business in Fairbanks, Alaska, Mr. Wyman? A. Yes.

Q. What is that business, please?

A. Photographic business services.

Q. Are you acquainted with, or have you met—strike that, please. Have you met Mr. Harkabus and Mr. Worsham, the FBI agents of [180] Fairbanks?

A. Not formally. I have met FBI agents, but my memory as far as names are concerned, I saw their card, a few of them.

Q. Could you tell us, Mr. Wyman, if during the month of July, 1953, or, well, yes, during the month of July, 1953, you were approached by the FBI to develop certain rolls of film?

A. The date I don't remember, but there was one day approximately I would say in July that two FBI boys came in with some rolls of film, size 127.

Q. And did the FBI agent accompany you and assist you in developing this film?

A. Well, they wanted to know if I wanted to develop this film, if I could. I said yes. I was going to take them. They wouldn't let me. They wouldn't release the film. They wanted to go in the darkroom with me, so both—and as I unwrapped the film one man handed me the film and the other man made sure I received that one roll of film at a time and they saw where I was hanging it and I developed five rolls of film that way.

Q. Did you make any marks on those rolls of film?

(Testimony of Earl Wyman.)

A. Yes. We have identification we put on them so we can separate them.

The Clerk: Government's Identification Nos. 38, 39, 40, 41 and 42. [181]

(Five rolls of developed film were marked Government's Identifications Nos. 38, 39, 40, 41 and 42, respectively.)

Mr. Stevens: Would you like to see these, Mr. Taylor?

Mr. Taylor: What are they?

Mr. Stevens: Rolls of film. Would you like to see them?

Mr. Taylor: Won't do any good. I can't read them.

Q. (By Mr. Stevens): Would you examine the film that is in Government's Identification 38, Mr. Wyman, and tell us if you can identify that film?

A. Yes, I developed this roll.

Q. How can you tell you developed that?

A. It has my punch mark on the end, and I wrote the number one on the back to correspond with the container.

Q. And this is Government's Identification 40, Mr. Wyman?

A. Yes, I developed that roll, too. These are the film that were developed when those men were with me.

Q. Would you do the same thing with Government's Identifications 39, 41 and 42, if you please?

(Testimony of Earl Wyman.)

A. I developed that one, too, No. 41. I developed that one, too, No. 39. [182]

Q. Are there identifying marks on each one of these?

A. Yes, there are punch marks on the end. Make sure we don't get them mixed up. We do that with all our film.

Q. That last one was Government Identification 39?

A. This is No. 42. I developed that one, too. I developed all five of these rolls and they are numbered from one to five. Each roll has a number, 1, 2, 3, 4, 5. That's all the films they had at that time.

Q. When you print a reproduction of these negatives or any negatives, Mr. Wyman, is there any number that you stamp on the back of the photograph, identifying number?

A. Yes, we do. Sometimes if it is a little quick, rush, somebody we know personally, but we usually have them marked by a machine.

Q. Well, this is Government's Identification 17, Mr. Wyman. Does that have a number on it that you can identify?

A. That was printed by my machine. There is my identification number right there.

Q. What is that identification number?

A. TS 733.

Q. And if you printed a series of pictures at that time would the same number appear on all of them?

(Testimony of Earl Wyman.)

A. Well, each roll may have a different number. Number 734, 735, so on, depending on how many rolls there were. That doesn't always take place though, if the man sent in the order as a group they would all have the same number. [183] These would all be in unless we were requested to make different group numbers.

Q. This is Government's Identification 25. Does it have a similar number?

A. That's TS 733. That's my identification number. I think mine is the only machine in town with that number.

Q. Government's Identification 20, does it have the same number also?

A. That's the same number.

Q. Here are a series of identifications, Mr. Wyman. Would you tell me if your identification number appears on all of those so that you could identify them as being printed at the same time?

A. These have all the same numbers. They were all printed by the same enlarger, and I would say at the same time.

Q. And that would be your identification number? A. Yes.

Q. So that these pictures were printed in your business?

A. They were printed by the only enlarger I have that will make marks like that.

Q. I wonder if we could cross-check again one of these rolls of film, Mr. Wyman, and have you say whether or not these negatives produced any

(Testimony of Earl Wyman.)

one of the Government's Identifications. Could you do that?

A. Well, I will have to do a little searching here to find one. [184]

Q. Take Government's Identification 25, for instance. Could you find that on that roll of film?

A. Yes, the second negative from the end here. This print was made from it.

Q. And that is from Government's Identification 42 you have there the negatives?

A. It is roll number 5. I don't know which one it is there.

Q. Government's Identification 42, this picture which is Government's Identification 25 is a print of that negative?

A. The second negative from the end.

Q. I wonder if you would do the same with this, just, this roll of film, please. This is Government's Identification 17?

A. It is a very thin negative. It is number 2 on this roll from all indications. The light is kind of bad on the negative so it is a poor one to make a positive identification, but I am very sure that it is the one.

Q. Try Government's Identification 20 on the same roll there, will you, please. Perhaps you can find it better.

A. Yes, the third one from the end.

Q. So you can positively identify two pictures that are printed here from this roll of film which is Government's Identification 41?

A. Yes.

(Testimony of Earl Wyman.)

Q. Well then, Mr. Wyman, would you tell the court [185] whether or not these prints are made from the same rolls of film that you developed with the FBI?

A. These prints and that other one I examined were made from the two rolls that I developed for the FBI.

Q. And all of these have the same numbers?

A. They all have the same identification, yes.

Q. Which would show that you or your business printed them all at the same time?

A. Yes. I developed the film myself, but I don't recall if I printed those or whether somebody working for me printed those.

Mr. Stevens: Mr. Taylor, would you care to stipulate that those pictures were all printed by that, or would you like for me to go through one by one?

Mr. Taylor: I have no objection that they were printed, but I am certainly not going to admit them in evidence. I will admit that the witness would testify that the prints were made from those negatives. I have no doubt about that.

Mr. Stevens: Very well. That's all I'm asking at this time. Your witness then, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Mr. Wyman, how long did it take you to print these films?

A. To print the prints? [186]

(Testimony of Earl Wyman.)

Q. To make the positives from your negatives?

A. Oh, ordinarily it takes about, depends on how big a rush. We could make them in an hour, an hour and a half.

Q. Now in this particular instance when you took these films and took them into the dark room with these two FBI men?

A. I didn't take the films for printing purposes. I took them for developing the film.

Q. You developed the film in there. What happened to the film then?

A. The FBI men, I turned it over to them.

Q. Did you print these?

A. I don't recall printing them myself. They were printed in our place. I may have done it.

Q. Now, when they left your place, did they have notations on the back of them?

A. Ordinarily, not in our writing. We didn't write that.

Q. You didn't write it. You notice some letters printed on there. Did you or your staff do that?

A. Do you mean these?

Q. No, on the front?

A. Oh, on the front there on the pictures. I don't know who put that on. I didn't. These either.

Q. And a number, quite a large number of these have different letters, "s," "h," "C," "d," and so forth. Would you say that they were not put on by your studio? [187]

A. They were not put on by me, and I don't believe anybody in the studio put them on.

(Testimony of Earl Wyman.)

Q. So they have been tampered with after they left the studio then, is that right?

A. Those letters were placed on there after they left the studio.

Mr. Taylor: That's all.

Redirect Examination

By Mr. Stevens:

Q. What size film is that, Mr. Wyman?

A. 127.

Q. And what type of camera would that fit into?

A. Quite a few. It is hard to say.

The Clerk: Government's Identification No. 43.

(Small Brownie camera was marked Government's Identification No. 43.)

Mr. Stevens: May we have the recess, your Honor?

The Court: Yes.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 3:55 p.m., the court took a recess until 4:05 p.m., at which time it reconvened and the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor. [188]

The Court: Very well, proceed.

EARL WYMAN

the witness on the stand at the time the recess was taken, resumed the stand for further

Redirect Examination

By Mr. Stevens:

Q. Mr. Wyman, how long have you been in the photography business?

A. Well, since about 1931.

Q. And have you had experience since that time in developing film? A. Quite a bit.

Q. And is that part of your business that you run here in Fairbanks, the development of film?

A. Yes.

Q. And have you had sufficient experience, Mr. Wyman, to be able to tell the size of a roll of film even though it is not printed on there?

A. I think so.

Q. Well, based upon that experience, Mr. Wyman then, will you tell us again what size this film is that is before the court?

A. That's 127, all five of them.

Q. Mr. Wyman, this is Government's Identification 43, a camera. Would you examine that camera, Mr. Wyman, and tell us if you can what size film would be used in that camera?

A. That is a Kodak special, Brownie Special. 127 film is all it will take. [189]

Q. And that camera could only take the size film which is before the court then?

A. That's the regular commercial 127. That's all it is built for. It is written right inside on there.

(Testimony of Earl Wyman.)

Mr. Stevens: Thank you very much, Mr. Wyman. Your witness, Mr. Taylor.

Recross-Examination

By Mr. Taylor:

Q. Mr. Wyman, with the normal development of those films, what size is the picture?

A. With the normal development?

Q. Yeah, would they be the size of the frame on the film?

A. No, there is two different ways of printing that. They make a contact print then it would be the same size as the film, but some people request either what they call a jumbo or a plain enlargement, and that can be blown up any size you want.

Q. That is blown up from it?

A. From the original negative.

Q. So that is not the first negative that is taken off, or the first positive?

A. I wouldn't say that. There would have been one or two before or after. You can't tell.

Q. So they have to be, these pictures have to be enlarged to get that size of photograph off of the small film, is that right? [190]

A. Yes, that's projected up a little bit.

Q. Is there any distortion in blowing up pictures?

A. Well, if you want to take a micrometer there is distortion. All lenses have a distortion pattern. It is very slight, but you have to measure it with micrometers to tell it.

(Testimony of Earl Wyman.)

Q. Unless you blow it up to normal size?

A. Oh, yes, you can see it then.

Q. Then there would be a distinct distortion in the picture?

A. Oh, yes, if they are real large.

Q. Did the FBI get these pictures back from you, Mr. Wyman?

A. I don't recall if they brought them in. If they brought them in, chances are they got them back. I know when they brought the film in they were in my presence all the time, and they made sure they got it back.

Q. Who would develop them though?

A. The prints?

Q. Yeah?

A. Now I have had people working for me do the printing for me.

Q. Would the FBI stay there while they were developing those?

A. They might have. They may have stayed there, and they may not have. I don't know. [191]

Q. Was there any way to tell that those have been printed in your establishment?

A. Oh, yes. They have my mark on the back. I don't think there is another machine in the country that has that type of marking.

Mr. Taylor: That's all, Mr. Wyman.

Mr. Stevens: Now, again, Mr. Taylor, for the record you stipulated that the prints which appear here are prints of the negatives which are before the court?

(Testimony of Earl Wyman.)

Mr. Taylor: I will stipulate that this witness testifies to that effect. We will take his testimony to be that.

Mr. Stevens: Then amending the stipulation, will you say that these prints that are before the court are such that Mr. Wyman would testify that the prints were made from the negatives which are before the court?

Mr. Taylor: Yes, I would stipulate to that.

Redirect Examination

By Mr. Stevens:

Q. And, Mr. Wyman, I ask you and in your opinion and based upon your experience, are those prints a fair representation of the negatives which are before the court?

A. Those that I examined are.

Q. And would you examine the pictures in general, all of the exhibits, and see if you could find any that is not, appears to be distorted or in any way altered. [192]

A. As far as the alteration of the latent image, or the image that is on the picture, any that I have seen have not been altered.

Mr. Taylor: You mean there is not sufficient distortion on any of them, Mr. Wyman, that would be noticeable?

Mr. Wyman: I haven't seen any.

Mr. Taylor: I will stipulate that there is no distortion on the pictures.

(Testimony of Earl Wyman.)

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: No further questions.

Mr. Wyman: The only thing I see on here is some ink. I would no doubt——

Mr. Taylor: That the ink marks that I called your attention to, Mr. Wyman?

Mr. Wyman: Yes.

Mr. Stevens: Thank you very much, Mr. Wyman. You wish to be excused, do you not, to go to Anchorage?

Mr. Taylor: No objection.

(Witness excused.)

Mr. Stevens: Mr. Hudson, please.

HOWARD K. HUDSON

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please. [193]

A. Howard K. Hudson.

Q. And you are in the service, Mr. Hudson?

A. Right.

Q. Were you stationed in or near the town of Fairbanks, Alaska, in June of 1953 as a member of the armed forces? A. Yes.

Q. Where were you stationed?

A. Eielson Air Force Base.

Q. Will you tell us whether or not you know a

(Testimony of Howard K. Hudson.)

girl named Marilyn Jean Casey? A. Yes.

Q. Where did you meet Miss Casey?

A. Southside Bar.

Q. Do you remember when you met here?

A. The last part of June or the first of July,
one of the two.

Q. Of 1953? A. Right.

Q. Do you know whether or not she had a car
at that time or she was using a car at that time?

A. She was using a '53 Buick.

Q. And you state that you met her at the South-
side Bar, Mr. Hudson? A. Yes.

Q. And was there anyone with her at that time?

A. No, I don't think so. [194]

Q. Do you remember approximately what time
it was in the day that you met her?

A. It was along late in the evening.

Q. Did you have—strike that, please. Did you
go anywhere with Miss Casey? A. Yes.

Q. Where did you go?

A. Trail's End Motel, I think it was.

Q. What type of a place was that?

A. Just one of those places.

Q. Well, was it a house or a Quonset Hut or
what type? A. It was just a cabin.

Q. And where is that located?

A. Out here on Cushman.

Q. And did you engage in any type of an act
with her, Mr. Hudson? A. Yes.

Q. What type of act was that?

(Testimony of Howard K. Hudson.)

A. Sexual relation.

Q. And did you pay her anything for that act of sexual relations? A. Sure did.

Q. What did you pay her?

A. Fifteen bucks.

Q. Did you see Miss Casey after that at all in Fairbanks? [195]

A. I have seen her around, yeah.

Q. And where did you see her?

A. Oh, different places, mostly around the South Side.

Q. Could you tell us whether or not you ever saw her at the Squadron Club? A. Yes.

Q. Do you remember when that was, Mr. Hudson?

A. It was along the last part of July, the middle of July.

Q. And did you see her at the place you met her originally after the first time?

A. I have seen her in there, yeah.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Who was with Miss Casey at the time that you met her? A. She was by herself.

Q. What? A. She was all by herself.

Q. And that was you say the Southside Bar?

A. Right.

Q. And did you start a conversation with her?

A. In a round-about way I guess.

(Testimony of Howard K. Hudson.)

Q. Have a few drinks with her?

A. No. [196]

Q. No drinks? A. No.

Q. And you know whereabouts on Cushman Street that this place that you went with her?

A. It is one of the cabins, Trail's End Motel. I don't know just the number of it.

Q. And how close can you set the date that you went there with her?

A. Well, I will say it was around the 2nd of July.

Q. Could have been the 3rd?

A. I don't believe so.

Q. Was you with Marilyn Casey the night that she was arrested?

A. I seen her the first part of the night, yeah.

Q. What?

A. I seen her the first part of the night, of the 3rd.

Q. You think, you believe it was the 2nd of July then that you went to Marilyn Jean Casey's cabin? A. Yeah.

Q. Anybody else there at the time you went to the cabin? A. No.

Q. What did she do with the money the time she got it? A. Beats me.

Q. That the only time you was with Miss Casey?

A. Yeah. [197]

Q. Where are you stationed now?

A. Andrews, D. C.

Q. What?

(Testimony of Howard K. Hudson.)

A. Andrews Air Force Base, D. C.

Q. Oh, Washington, D. C.? A. Yeah.

Q. You subpoenaed to come up here to testify?

A. Must have been.

Q. That's how you happened to be here?

A. Yeah.

Q. How did you come, Army transportation or Air Corps transportation?

A. Military air line.

Q. When did you leave Washington?

A. The 4th.

Q. Do you know Mr. Bennett?

A. No, I never did know him.

Q. You know Mr. Kehert? A. No.

Mr. Taylor: That's all.

Redirect Examination

By Mr. Stevens:

Q. Mr. Hudson, did you notice the license plate on the car that Miss Casey was driving the night that you went with her?

A. Indiana, I think it was. [198]

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: That's all.

Mr. Stevens: Thank you, Mr. Hudson.

(Witness excused.)

Mr. Stevens: Your Honor, may we ask for an adjournment at this time. The next government witness has not arrived as yet.

The Court: Any objection, Mr. Taylor?

Mr. Taylor: Sir?

The Court: I say is there any objection to a recess at this time?

Mr. Taylor: Well, if he has some other witness, I would like to get this thing over with. It is dragging pretty slow.

The Court: Do you have any witnesses you can use.

Mr. Stevens: Your Honor, I have two witnesses who are coming in and then two FBI agents, but as a matter of proof I would prefer not to produce the FBI agents at this time.

The Court: I will require you to proceed.

Mr. Stevens: Call Mr. Worsham.

JOHN W. WORSHAM

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens: [199]

Q. Will you state your name, please?

A. John W. Worsham.

Q. What is your occupation, Mr. Worsham?

A. Special Agent, Federal Bureau of Investigation.

Q. And where is your duty station?

A. Fairbanks, Alaska.

Q. Were you stationed here in June of 1953?

A. I was.

The Clerk: Government's Identification No. 44.

(Testimony of John W. Worsham.)

(Envelope containing twenty (20) receipts for the purchase of gasoline was marked Government's Identification No. 44.)

By Mr. Stevens:

Q. Mr. Worsham, do you know a girl named Marilyn Jean Casey? A. I do.

Q. Did you have occasion to see her in July of 1953? A. I did.

Q. In Fairbanks, Alaska? A. I did.

Q. And where did you first see her?

A. I saw Miss Casey first in the United States Attorney's Office.

Q. And do you remember the date?

A. July the 6th, 1953.

Q. Mr. Worsham, this is Government's Identification 30; are you familiar with that identification? [200] A. I am.

Q. Could you tell us whether or not you have seen it before? A. I have.

Q. Could you tell us whether or not your name appears on that?

A. It does. It appears on the last page and on the first page typewritten. My signature on the last page.

Q. Are you then a witness to that document?

A. I am.

Q. Would you tell the court and the jury how that document was prepared, Mr. Worsham?

A. How it was prepared?

(Testimony of John W. Worsham.)

Q. Yes.

A. This document was prepared by, after an interview with Miss Casey in the FBI office which is Room 203 on the second floor of this building.

Q. And was Miss Casey present at that time?

A. She was.

Q. Who typed the document?

A. Mrs. Chesser of the Marshal's office, if I remember correctly.

Q. Mr. Worsham, did you suggest to Miss Casey the contents of that document?

A. No, I did not.

Q. Did any person in your presence suggest to her the contents of that document? [201]

A. No, I do not remember if anyone did or not. I don't think that anyone did. This statement was made by Miss Casey, part of it was dictated to my knowledge by her, and part of it by Mr. Harkabus, Special Agent Harkabus at that time.

Q. And were you present when Mr. Harkabus dictated the portion which he prepared?

A. I was.

Q. And where did he get the information?

A. From Miss Casey.

Q. Mr. Worsham, did you make any threats or promises to Miss Casey in order to secure that statement? A. No, sir, I did not.

Q. To your knowledge, did any other person make any threat or promise to Miss Casey to secure that?

(Testimony of John W. Worsham.)

A. No, sir, not in my presence or any other time that I know of.

Q. What was the occasion of having that statement prepared, Mr. Worsham?

A. Well, for a complete account of what Miss Casey had told us, the allegations she had made against the individuals.

Q. Did you know who those individuals were?

A. At the time?

Q. Yes.

A. I had never seen—at this time I had seen Norma [202] Ruth Crosby who is mentioned in the statement, and I had also seen Miss Ward prior to the statement.

Q. But you were not acquainted with Mr. Bennett, the defendant in this action? A. No, sir.

Q. And did you know Mr. Kehert, the defendant in this action, at that time? A. No, sir.

Q. Who supplied the names of the individuals named in that Indictment, in that statement?

A. Miss Casey.

Q. This is Government's Identification 31——

Mr. Stevens: And, your Honor, at this time, this affidavit is the original of Government's Identification 31. I would like to strike that and put this in as Government's Identification 31.

The Court: Very well.

Q. (By Mr. Stevens): Are you familiar with Government's Identification 31, Mr. Worsham?

A. I have seen this before.

Q. Where did you see that, Mr. Worsham?

(Testimony of John W. Worsham.)

A. Agent Harkabus showed it to me.

Q. And do you know how that was prepared?

A. How it was prepared?

Q. Yes. [203]

A. I wasn't present at the time this was prepared.

Q. Do you know of your own knowledge who prepared it? A. I do not know who typed it.

Q. Do you know who dictated the material contained in the affidavit?

A. It wasn't in my presence.

Q. But this other, Government's Identification 30, was prepared in your presence?

A. Yes, it was.

Q. Would you tell us whether or not the initials M.J.C. that are on there were put on there in her presence?

A. I observed Miss Casey placing her initials, M.J.C.

Q. Did you observe her read that document?

A. I did.

Q. Did you explain to Miss Casey, or did someone explain to her in your presence the import of that document, Mr. Worsham? A. We did.

Q. Mr. Worsham, this is Government's Identification 43; would you tell us where that, what that is, please? A. A baby Brownie camera.

Q. And have you seen that before?

A. I have.

Q. Where did you first see that, sir?

(Testimony of John W. Worsham.)

A. I first saw it in Room Number 4 of the Transient Rooms. [204]

Q. And do you know of your own knowledge who was staying in that room at the time?

A. Well, Mr. Kehert was in the room at the time that I saw this.

Q. Did you take possession of the camera when you saw it? A. Yes.

Q. Do you know what date that was?

A. Yes, sir. It was July the 6th, 1953.

Q. And who was with you at that time?

A. Agent Harkabus of the FBI, Deputy Marshal, or Acting Marshal Theodore McRoberts, and Mr. T. N. Gore, Assistant United States Attorney.

Q. And when you found that, Government's Identification 43, for what purpose were you in Mr. Kehert's room? A. For his arrest.

Q. And did you arrest Mr. Kehert at that time?

A. Agent Harkabus read the warrant to Mr. Kehert.

Q. And how did you obtain that camera?

A. A search incidental to an arrest.

Q. And did you take possession of it at that time? A. Yes, sir.

Q. Were there any other items along with that camera?

A. There were five rolls of exposed film.

Q. Did you take possession of those rolls of film, too? [205] A. Yes, sir, at that time.

Q. These are Government's Identification 38 through 42, I believe. Would you tell us whether or not you have seen those before, Mr. Worsham?

(Testimony of John W. Worsham.)

A. I have.

Q. Where did you see those?

A. When I saw the film they were in, on a spool at the time, not like this, that fits into this camera.

Q. What did you do with the film when you got it?

A. We took it down to Mr. Wyman to have it developed.

Q. And did you observe the film being developed?

A. I was in the dark room at the time.

Q. And were there any identifying marks put on the film at that time, Mr. Worsham?

A. To my knowledge there was, but I didn't put it on.

Q. Who put the marks on there?

A. Agent Harkabus.

Q. And are all five of those rolls of film included in your testimony as to the place where you found them, Mr. Worsham?

A. Yes, sir.

Q. Mr. Worsham, this is a series of pictures marked for identification that have writing on the back, and some have writing on the front. Would you take them individually and tell us if you know who put the writing on the back? Did you put any of the writing on yourself, Mr. Worsham? [206]

A. Not to my knowledge. I would have to examine them all prior to making that statement. I did not.

(Testimony of John W. Worsham.)

Q. Have you seen those pictures before, Mr. Worsham? A. I have.

Q. Where did you see those pictures before?

A. I saw these pictures after they were developed, at Mr. Wyman's, of the prints made of this film.

Q. Was Miss Casey ever shown those films in your presence? A. She was.

Q. Do you know who owned the camera which is Government's Identification 43?

A. Miss Casey told us she owned it. I don't know who owns it.

Q. And the film, the rolls of film, do you know who owned those?

A. She told us that she owned the film also.

Q. Mr. Worsham, this is Government's Identification 44 which has twenty coupon receipts, and Government's Identifications 35 and 36. Will you tell us whether or not you can identify those?

A. I can.

Q. Where did you first see those, Mr. Worsham?

A. In room 404 of the Fifth Avenue Annex Hotel.

Q. Here in Fairbanks, Alaska?

A. Right. [207]

Q. And what were you doing in that room?

A. Arrest Mr. Bennett.

Q. And by Mr. Bennett, do you mean the defendant in this action?

A. Mrs. James J. Bennett.

(Testimony of John W. Worsham.)

Q. And where in particular did you find those coupons?

A. When I first saw the coupons they were being handled by Agent Harkabus.

Q. Do you know of your own knowledge where they came from, Mr. Worsham?

A. Of my own knowledge, I think they came from Mr. Bennett's wallet.

Q. And was Mr. Bennett under arrest at the time? A. He was.

Q. Now, Mr. Worsham, when you went into Mr. Kehert's room, did you and Agent Harkabus identify yourselves as agents of the Federal Bureau of Investigation? A. We did.

Q. And did you identify yourselves in a similar manner to Mr. Bennett when you went to his room?

A. We did.

Q. On what date did you go to Mr. Bennett's room? A. July the 6th, 1953.

Q. Now, the two Government Exhibits which are separate parts of the same—strike that, would you, please. Did you see those two, Government's Exhibits 35 and 36 at the same time you saw the others originally? [208] A. 35 and 36?

Q. Right on top, Mr. Worsham.

A. At the time that I saw these gas coupons there were twenty-two of them at that time, I saw twenty-two.

Q. How many are in the one identification? That is Government's Identification 44; how many are there? A. I counted twenty-two.

(Testimony of John W. Worsham.)

Q. And that is counting the two which are separate identifications? A. Yes.

Q. Is that the number you saw the first time you saw these coupons?

A. The first time I counted them that is how many I saw.

Q. The first time you counted them?

A. Right.

Q. Was there anyone with Mr. Kehert at the time you went to his room? A. No, sir.

Q. Did you have a conversation with him at that time?

A. I did not, other than identifying myself and Agent Harkabus arrested him.

Q. Was there anyone with Mr. Bennett when you arrested him?

A. When I entered the room Acting United States Marshal Theodore McRoberts was in the room. [209]

Q. And at that time did you have any conversation with Mr. Bennett? A. I did not.

Q. Mr. Worsham, did you go to see Miss Casey at a private home in South Fairbanks in the company of Mr. Sullivan and Mr. Harkabus at any time?

A. I went to see Miss Casey with Agent Harkabus at the home of Ed Gines.

Q. And do you remember when that was?

A. The exact time I couldn't recall.

Q. Well, at that time, Mr. Harkabus, did you threaten Miss Casey and tell her that she would

(Testimony of John W. Worsham.)

have to tell the story which she told the first time she told you the story of these facts?

A. No, sir, I have never threatened anyone in order to obtain a statement or anything else.

Q. Well, did Mr. Harkabus threaten her at that time? A. No, sir.

Q. And when you originally obtained this statement from Miss Casey did you tell her that if she gave a statement to you as a member of the FBI you would see that the charges would be dropped against her? A. No, sir.

Q. Did you know that there was a case pending against her at that time? [210]

A. I knew that she had been arrested for operating a bawdy house. Mr. McRoberts told me that.

Q. Mr. Worsham, did you participate in the Federal Bureau of Investigation's investigation in this case? A. I did.

Q. Do you know Mr. Kenneth Hudson?

A. I do.

Q. When did you meet him?

A. When I interviewed him at Eielson Air Force Base.

Q. Do you remember what time of the year that was, and what year it was?

A. It was 19 and 53. The exact date I do not recall this time.

Q. And how did you happen to locate Mr. Hudson?

A. Miss Casey had told me that she had turned

(Testimony of John W. Worsham.)

a trick with Mr. Hudson while working as a prostitute in Fairbanks, Alaska.

The Clerk: Government's Identification 45.

(Post card bearing picture of Royal Motel was marked Government's Identification No. 45.)

Q. (By Mr. Stevens): Mr. Worsham, this is Government's Identification 45. Would you tell us what that is, please?

A. It is a post card with a picture of Royal Motel, Denver's Finest, 595 South Broadway, Denver, Colorado, is on the front of it. [211]

Q. And where did you find that?

A. That was found in the room of Mr. Kehert.

Q. And when was that found?

A. On July the 6th, 1953.

Q. And was that found at the same time you have described before when you were in the room of Mr. Kehert for the purpose of making an arrest?

A. Yes, sir, it was. I was never in Mr. Kehert's room but one time.

Q. And where did you find that, or did you find that, Mr. Worsham?

A. I didn't find this. I saw it. Agent Harkabus found this post card.

Q. Are your initials on that post card?

A. Yes, sir.

Q. And when did you put them on there?

A. On July the 6th, 19 and 53.

Mr. Stevens: Your Honor, at this time may we now adjourn?

(Testimony of John W. Worsham.)

The Court: Yes. In a moment, ladies and gentlemen of the jury, we will take an adjournment until tomorrow morning. In the meantime, remember not to talk about the case or the parties or permit anyone to talk about them within your hearing. Keep your minds perfectly free from an opinion as to the guilt or innocence of these defendants until the case is finally submitted to you. Make the adjournment. [212]

The Clerk: Court is adjourned until ten o'clock tomorrow morning.

(Thereupon, at 5 o'clock p.m., the trial of this cause was adjourned until May 12, 1954, at 10 a.m.)

Be It Remembered, that upon the 12th day of May, 1954, at the hour of 10 o'clock a.m., the trial of this cause was resumed, the plaintiff and the defendants both represented by counsel, the Honorable Harry E. Pratt, District Judge, presiding:

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

The Clerk: They are all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case?

Mr. Stevens: The Government is ready, your Honor.

Mr. Taylor: Defendants are ready.

The Court: Very well. Call your witness.

JOHN W. WORSHAM

the witness on the stand at the time of the adjournment, resumed the stand for further direct examination:

The Clerk: Government's Identification No. 46.

(Paper bag with the name Fashion Bar, Colorado, was marked Government's Identification No. 46.) [213]

By Mr. Stevens:

Q. Mr. Worsham, this is Government's Identification 46. Will you tell us what this is, please?

A. It is a shopping bag from the Fashion Bar, Denver.

Q. Where did you first see that, Mr. Worsham?

A. I first saw this at room No. 4 of the Transient Rooms, the room that Mr. Kehert was arrested in.

Q. And where exactly was it in the room?

A. It was on a chest of drawers on the right side of the room as I entered the room.

Q. Was there anything in the bag?

A. There was a camera, a Brownie camera, film, also the post card of the Royal Motel.

Q. And is Government's Identification 43 the camera which was in the bag which is Government's Identification 46? A. May I see it. It is.

Q. And is this Government's Identification 45 the card which was in the bag? A. It is.

Q. And were these four rolls of film, Government's Identification 38 through 41?

(Testimony of John W. Worsham.)

A. That's the film that was on the spools, exposed prior to being developed.

Q. Now, how did you know where to locate that bag?

A. Prior to going to the Transient Rooms for the arrest of Mr. Kehert, Mr. Harkabus and Miss Casey had told us these articles were there, and they were hers. [214]

Q. And they were all together?

A. Yes, sir.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Now, Mr. Worsham, you said that this shopping bag was from Denver?

A. It is on the face of the shopping bag, Denver.

Q. Now, how do you know that that is from Denver?

A. Miss Casey told us it was.

Q. Could that be from Aurora or Greeley?

A. Possibly could. Those name are on it.

Q. And she told you when you was talking to her in the jail here that the shopping bag was out there?

A. When I was talking to her in the FBI office, Room 203 of this building.

Q. On the 6th day of July?

A. July, 1953.

Q. And, now isn't it a fact that you claimed at a preliminary hearing that these pictures belonged to Mr. Kehert?

A. I did not testify at a preliminary hearing.

(Testimony of John W. Worsham.)

Q. You did not testify? A. No, sir.

Q. I believe Mr. Harkabus testified then, did he not? A. He did, to my knowledge. [215]

Q. Now, if Miss Casey testified on the stand here that you took these things without her permission, in fact she testified that they were stolen, would you say that was an error on her part?

A. I know that she told us these articles were there, they were her property and she said it would corroborate her statement to us.

Q. Now, where was this?

A. It was on a chest of drawers on the right-hand side of room number 4 of the Transient Rooms as you enter the door.

Q. Right in plain sight, was it not?

A. It was up on top of the chest of drawers.

Q. And you took this picture, or took this camera and these rolls of film and then you had them developed, is that right? A. Yes, sir.

Q. Miss Casey's permission?

Q. She told us we could have them, told us they were her property.

Q. Was there anything in this statement here, Mr. Worsham, about that camera and films that you could have them?

A. Not to my knowledge. There is nothing in here that we could have them, no, sir. [216]

Q. Now, that is important enough to be admitted in evidence here, these pictures; wasn't it important enough to be put into this statement? How did you happen to leave that out?

(Testimony of John W. Worsham.)

A. Well, we did leave it out.

Q. You did leave it our purposely?

A. No, sir, not purposely.

Q. Now, did you make any of the markings on the film, Mr. Worsham? A. No, I did not.

Q. Who did? A. Mr. Harkabus.

Q. And what kind of markings did he make?

A. Well, it was dark in the room. I couldn't see. I observed him since he punched holes on the end of roll of film.

Q. He was in there in the dark making markings on the film?

A. Yes, sir, he was in my presence and Mr. Wyman's.

Q. Did you see him making the markings?

A. No, sir, I did not.

Q. Now, coming back to that statement, Mr. Worsham, you said that you helped prepare that statement?

A. I helped with the interrogation of Miss Casey.

Q. Now, just how do you interrogate; do you say would you like if you are questioning somebody you say, now you [217] just tell me all about that, or do you say, isn't it a fact that such and such happened?

A. We ask an individual when we are questioning him we apprise them that they do not have to talk to us, and we always apprise them that they are not forced or under duress, promises or rewards made to them in order for them to talk to us.

Q. And isn't it a fact that sometimes that you

(Testimony of John W. Worsham.)

tell them, well, now, if you will cooperate you won't be in trouble? A. No, sir.

Q. What? A. I do not.

Q. You don't? A. No, sir.

Q. You tell Miss Casey she was entitled to an attorney to be present?

A. I think Mr. Harkabus did.

Q. What you didn't think of Mr. Harkabus thought of; is that right?

A. No, I wouldn't say that either.

Q. Sometimes neither one of you think about it, is that right? A. Sir?

Q. Sometimes neither one of you would think about it?

A. Well, in a case of that nature, I think if one of [218] us advises her in the presence of two people interviewing her, I don't see any necessity of repeating the statement.

Q. How many were present when you were questioning her?

A. Taking the statement Mr. Harkabus and myself and Miss Chesser, sir.

Q. You would ask questions and Mr. Harkabus would ask questions?

A. At the time that statement was taken Mr. Harkabus and Miss Casey dictated it.

Q. Miss Casey dictated it out just the way it was? A. Part of it, and Mr. Harkabus.

Q. Mr. Harkabus, and I believe you said you dictated part of it?

A. Did I say I helped prepare it?

(Testimony of John W. Worsham.)

Q. That's what you said, did you not?

A. When I was there I asked questions during the time the statement was being prepared.

Q. Now the preparation, you mean that while it was being prepared, actually typewritten, putting the words down, on that paper?

A. No, sir. Mrs. Chesser took it in shorthand.

Q. Well, what did you do in preparing it then?

A. Well the statement was prepared, being typed.

Q. And you put some of the words down that Mrs. Chesser were to type, is that right?

A. I might have commented on some [219] phraseology.

Q. Now you must have because Miss Casey, if she testified there is words in there that she didn't even know the meaning of, who supplied those?

A. Miss Casey read that statement and was asked if there was anything in it that she didn't understand to advise us and initialed each page and signed the statement.

Q. Now, after Miss Casey signed this statement, who had her released from custody, you or Mr. Harkabus?

A. Neither one of us.

Q. Who released her?

A. I do not know.

Q. You knew she was being held under a charge, did you not?

A. Not a Federal charge on which the FBI has jurisdiction.

Q. You know that she was in jail at the time you talked to her?

A. Yes, sir, I do.

(Testimony of John W. Worsham.)

Q. And then subsequent to signing this paper she was released, wasn't she?

A. To my knowledge, I heard that she was.

Q. To your knowledge. Isn't it a fact, didn't you tell her to come back the next day and sign another statement?

A. No, sir.

Q. What?

A. I did not. [220]

Q. Now, Mr. Worsham, will you tell me then how she happened to come back two days later and sign this one before you? She just come walking down there?

A. I testified yesterday, Mr. Warren Taylor, that Miss Casey, this statement was prepared in the presence of Mr. Harkabus. I think I was present at the time that it was signed before Mrs. Nordale. That's the time that I saw the statement.

Q. Were you present when Marilyn Casey signed that?

A. Yes, sir, I was in the Commissioner's office.

Q. And who was it used the words there that Miss Casey did not know the meaning of, you or Mr. Harkabus?

A. It must have been Mr. Harkabus if she did not know the meaning of it.

Q. Do you know what Miss Casey was in jail for?

A. I think it was vagrancy. I couldn't say for sure.

Q. Do you know when she was arrested?

A. I couldn't say positively, no, sir.

(Testimony of John W. Worsham.)

Q. Now, you say that you went to the Transient Rooms; when you went there did you have a Warrant for the arrest of Mr. Kehert?

A. Mr. Harkabus had a Warrant for Mr. Kehert's arrest in his pocket.

Q. Did you have that Warrant when you left the Federal Building to go out there?

A. Yes, sir, Mr. Harkabus had it. [221]

Q. Who got that Warrant?

A. Who received the Warrant?

Q. Yes, who was the one that procured the Warrant? A. Mr. Harkabus filed a Complaint.

Q. Now, did Mr. Harkabus make an application for a Search Warrant?

Mr. Stevens: I object, your Honor. The question of the search has been fully argued before this court, and I do not think it should be gone into again.

The Court: Objection sustained.

Q. (By Mr. Taylor): You had no Search Warrant then?

Mr. Stevens: I object again, your Honor.

The Court: You object to that because it is contrary to the facts?

Mr. Stevens: No, sir, it is not contrary to the facts. I do not wish him to go into the same thing again. I am objecting to the fact that Mr. Taylor is attempting to go around your Honor's ruling in that regard, in regard to my prior objection that the question of the validity of this search and seizure has already been settled before this court.

(Testimony of John W. Worsham.)

If he just wants to ask the man if he's got a Search Warrant that's all right, but I believe he is attempting to go around your Honor's ruling. I do not wish to go into this question of the search and seizure again. We have argued it fully. I will withdraw my objection to the last question and just see what happens. [222]

The Court: Very well. Proceed, Mr. Taylor.

A. We did not have a Search Warrant.

Q. (By Mr. Taylor): Did you have an opportunity to get one before you went to that, to the Transient Rooms?

A. We could have, I imagine, because we knew that this camera, post card, shopping bag and what not was there and the property of Miss Casey.

Q. Now, what did you do when you went to Mr. Kehert's room? A. What did I do?

Q. Yeah. A. Well, the door was open.

Q. Who opened the door? A. Mr. Kehert.

Q. And then what followed?

A. Pertaining to me, sir?

Q. You and Mr. Harkabus and Mr. Kehert?

A. When the door was opened Mr. Harkabus drew his gun and we walked inside.

Q. What did he do with the gun?

A. Mr. Harkabus?

Q. Yeah.

A. He put it back in the holster. We put Mr. Kehert against the wall, searched him for weapons and handcuffed him. [223]

(Testimony of John W. Worsham.)

Q While you were searching what was Mr. Harkabus doing with this gun?

A. It was in his holster. After we got him against the wall I did not see the gun again.

Q. He had it in his hand when he went in?

A. Not when he went in. Mr. Kehert opened the door. Mr. Harkabus drew his gun to cover. We asked Mr. Kehert, and we put him against the wall, and I didn't observe Mr. Harkabus with the gun any more.

Q. Did you handcuff Mr. Kehert?

A. We did.

Q. Had he offered any resistance?

A. He did not.

Q. What was the purpose of handcuffing him then? A. He was a prisoner.

Q. Do you handcuff a prisoner that you are arresting upon suspicion?

Mr. Stevens: I object to that, your Honor. We have already stated we had a Warrant for his arrest. There is no ground for Mr. Taylor's question that he was arrested on suspicion. My objection was Mr. Taylor has already brought out himself that the FBI agents had a Warrant for Mr. Kehert's arrest and there was no arrest upon suspicion.

The Court: Well, this is about a handcuffing.

Mr. Stevens: It was a question of whether or not he handcuffs a person when he arrests him on suspicion. They [224] arrested him on a Warrant, your Honor, not suspicion.

The Court: Objection sustained.

(Testimony of John W. Worsham.)

Q. (By Mr. Taylor): Well, now, what is the procedure, your customary procedure if you are arresting a person on suspicion; do you handcuff?

A. I never arrested a person on suspicion.

Q. Do you ever arrest a person on suspicion?

A. No, sir, when we arrest there is a Warrant outstanding.

Q. But when you search you don't always have a Search Warrant?

A. To search a place we don't always have a Search Warrant?

Q. Yeah.

A. When we search places incident to arrest and when we have a Search Warrant.

Q. Now, what else did you take from room 4 in the Transient Rooms?

A. That's all that I took to my knowledge.

Q. Camera?

A. Camera, post card, shopping bag, and film.

Q. And at the time that you went out, left town, you knew then that the shopping bag and the film and the camera was in Mr. Kehert's room, did you not?

A. Yes, sir, I did. Miss Casey had told me that, Mr. Harkabus and myself. [225]

Q. But knowing that these things were there you failed to get a Search Warrant, is that right?

A. We did not get a Search Warrant.

Q. And knowing those articles were there. Well, now, when did you first see Mr. Bennett?

(Testimony of John W. Worsham.)

A. I first saw Mr. Bennett in Room 404 of the Fifth Avenue Annex Hotel.

Q. And when was that?

A. That was on July 6th, 1953.

Q. July the 6th, what time of the day?

A. About five o'clock.

Q. In the afternoon? A. Yes, sir.

Q. And how did you happen to go there?

A. Mr. Harkabus had in his possession a Warrant for Mr. Bennett's arrest.

Q. And where did you first go after you got that Warrant? A. Where did we first go?

Q. Yeah.

A. Directly to—I was in the FBI office when Mr. Harkabus obtained the Warrant. He come by. I went with him to the Fifth Avenue Hotel Annex, Room 404.

Q. And did you know that at the time you got the Warrant that Mr. Bennett was under arrest then by Mr. McRoberts?

A. No, sir, I did not. [226]

Q. And did you know that either at your instigation or the instigation of Mr. Harkabus the booking of Mr. Bennett was interrupted and he was taken back to the Fifth Avenue Hotel?

A. I have no knowledge of that.

Q. Well, you have the knowledge that Mr. McRoberts—Deputy Marshal McRoberts—was in the room with Mr. Bennett at the time that you got there? A. He was.

(Testimony of John W. Worsham.)

Q. That he had him a prisoner and under guard at that time? A. I did not know that.

Q. You did not know it? A. No, sir.

Q. What would the Deputy Marshal be there at that time for then?

A. You would have to ask him. I couldn't say.

Q. And at that time that you got your Warrant for his arrest did you get a Search Warrant for his room?

A. No, sir, I did not. I didn't get the Warrant for his arrest.

Q. And were you not advised by Mr. McRoberts that he was taking Mr. Bennett back to his room?

A. I was not.

Q. Was Mr. Harkabus advised?

A. I do not know. [227]

Q. Mr. Harkabus didn't say anything about it?

A. To me?

Q. Yeah.

A. Mr. Harkabus told me we were going to the Fifth Avenue Hotel Annex for the arrest of Mr. Bennett.

Q. Do you remember Mr. Harkabus getting a telephone call in your presence from Mr. McRoberts that he was taking Mr. Bennett back to the Fifth Avenue, if he would come up there and get a Warrant he could search the place?

A. I don't know. I'm not sure whether it was Mr. McRoberts or not. There was a telephone call. I do not know the contents of the conversation and

(Testimony of John W. Worsham.)

I couldn't definitely say it was from Mr. McRoberts. I didn't hear it.

Q. So while Mr. Bennett was under arrest by Mr. McRoberts you arrested him then under a Warrant, is that right?

A. I do not know that Mr. Bennett was under arrest by Mr. McRoberts.

Q. Now, isn't it a fact, Mr. Worsham, that at the time that you left the Federal Building to go to the Fifth Avenue Hotel that you knew that McRoberts, the Deputy Marshal, had Bennett in custody and that he was booking him here at the Federal Building to put him in jail?

A. No sir. ,

Q. And that he told you to come to the Fifth Avenue Rooms, Fifth Avenue Hotel and he would have him back there so you could search the place?

A. Mr. McRoberts did not tell me anything. [228]

Q. Now, what did you do when you got up to the Fifth Avenue Hotel?

A. Mr. Harkabus read the Warrant to Mr. Bennett and arrested him.

Q. How did you get in; who opened the door?

A. Mr. Harkabus was in front and the door was opened. I don't know who opened the door.

Q. Mr. McRoberts? A. He could have.

Q. Was Mr. McRoberts there when you got there? A. He was.

Q. And so who else was there?

A. Mr. Bennett.

Q. And who else was there?

(Testimony of John W. Worsham.)

A. Mr. Harkabus and myself.

Q. Was there any ladies there?

A. No, sir.

Q. And where was Mr. Bennett?

A. I do not know.

Q. Now, isn't it a fact, Mr. Worsham, that Mr. McRoberts had taken Mrs. Bennett, Miss Crosby and Mr. Bennett down to the Federal jail before that?

A. I don't know.

Q. You don't know? A. I don't.

Q. Now, do you truly not know? [229]

A. I didn't see him.

Q. Did you hear about it?

A. Did I hear about it?

Q. Yeah.

A. I think I heard that he arrested Mrs. Bennett that day.

Q. And who else?

A. To my recollection that is the only person I remember that he arrested.

Q. And then what did you do after you arrested Mr. Bennett at the room?

A. We made a search.

Q. And what did you find?

A. What did we find?

Q. Yeah. A. In that room?

Q. Yeah.

A. A 380 Spanish automatic gun was found, a 22 caliber rifle, gas coupons were found.

Q. What? A. Gas coupons.

Q. Where were the gas coupons?

(Testimony of John W. Worsham.)

A. When I saw them Mr. Harkabus had them.

Q. Now, isn't it a fact when you went in there they were laying on top of the bureau drawer?

A. I couldn't testify to where they were. [230]

Q. And what else did you get?

A. Did I get?

Q. Yeah, you and Mr. Harkabus and Mr. McRoberts?

A. Mr. Harkabus will have to testify to what he got there, sir.

Q. Did you ever give Mr. Bennett a receipt for what was taken out of that room?

A. I did not.

Q. Isn't it customary to give a receipt when you take something from——

A. He was arrested by Mr. Harkabus.

Q. Didn't you have joint authority with Mr. Harkabus?

A. As far as the arrest is concerned, we did.

Q. Isn't it just as much your responsibility to see that the law is complied with; wouldn't you be equally responsible if an action was brought against you for not giving them a receipt?

A. For not giving them a receipt?

Q. Yeah, don't you know the law says if you take something from somebody you have got to give them a receipt for it?

A. That's correct.

Q. Well, why didn't you see whether Mr. Bennett got a receipt in this instance?

A. I did not give them a receipt.

Q. Did you see Mr. Harkabus give them a

(Testimony of John W. Worsham.)

receipt? [231] A. No, sir, I didn't.

Q. Well, what else did you take now?

A. I did not take anything.

Q. Did Mr. Harkabus take anything out?

A. Did he take anything out?

Q. Yeah.

A. There was two keys, I think were taken, a key with a number on it and another tab with a number on it.

Q. Isn't it a fact that you took out some clothes belonging to Mrs. Bennett and Miss Crosby?

A. I don't think that I took those clothes.

Q. Who took the clothes?

A. I couldn't say who did. I know they were there.

Q. And do you know that they were taken out, even the wet ones that were in the bathroom?

A. I know that they were taken out, yes, sir.

Q. Taken out of the jail?

A. Taken where?

Q. To the jail.

A. I think they were taken to the Marshal's office, sir.

Q. Did you give anybody a receipt for those clothes? A. No, sir, I did not.

Q. Have you ever give them to the lawful owner of those clothes? A. I have not.

Q. You mean that that is all the respect that you have [232] for other peoples' property, you can take it and just leave it lay some place; don't give it back to them if you are not using them?

(Testimony of John W. Worsham.)

A. I did not take that property, sir.

Q. You were in the search though, weren't you?

A. Yes, sir.

Q. You were on the expedition; you was the one that made the arrest, you and Mr. Harkabus?

A. Technically Mr. Harkabus made the arrest. He read the Warrant to Mr. Bennett.

Q. Well, now, you going to put up a technical defense now that you had nothing to do with it?

A. I was there.

Q. You were there. Now, since the preliminary hearing on the 20th of October I believe it was in this case, how many times have you talked to Marilyn Casey?

A. I went with Mr. Harkabus down to Ed Gines' home here in Fairbanks prior to the preliminary hearing. I think I had talked to Miss Casey several times in the presence of Mr. Harkabus.

Q. Did you ever talk to her alone?

A. No, sir.

Q. And where have you talked with her?

A. In our office, and the residence of Ed Gines.

Q. And what was the latest time you talked to her?

A. Prior to the preliminary hearing. [233]

Q. And how many times you talk to her since the Indictment in this case?

A. To my knowledge, none.

Q. Now, isn't it a fact within two weeks Mr. Worsham when Miss Casey was in the office of the,

(Testimony of John W. Worsham.)

or in the Commissioner's Courtroom here that you asked her to come to your office?

A. That was prior to the preliminary hearing, yes, sir.

Q. No, within two weeks, about two weeks ago?

A. No, sir, not to my knowledge.

Q. Do you remember about two weeks ago talking to Miss Casey in the corridor?

A. I saw Miss Casey in the hall.

Q. And you asked her to come to the office?

A. Yes, I told her that I would like to talk to her at a later time.

Q. That's about two weeks ago?

A. Yes, sir, I do recall it.

Q. That's long since the Indictment, isn't it?

A. Yes, sir, that's right.

Q. You ever been in Denver, Mr. Worsham?

A. Yes, sir.

Q. Have you ever been to the Royal Hotel, or the Royal Motel? A. No, sir.

Q. Now, you had a card here that had a lithographed picture on it that says Royal Motel; do you know whether [234] that is the Royal Motel in Denver? A. No, sir, I do not.

Q. You don't know? A. No, sir.

Q. Now, Mr. Worsham, isn't it a fact that when you were in Mr. Kehert's room that you searched the room while Mr. Harkabus held a pistol to the head of Mr. Kehert? A. No, sir.

Q. Isn't it also a fact that you took pictures

(Testimony of John W. Worsham.)

from the possession of Mr. Kehert, pictures of his mother and his family?

A. I did not take those pictures, sir.

Q. Did you see them?

A. I saw an album there, yes, sir.

Q. And he asked you to give them back to him, did he not?

A. I did not have them.

Q. You searched the room, didn't you?

A. Yes, but I didn't take those pictures.

Q. Do you know where those pictures are now?

A. I couldn't say for sure. I think the Marshal has them.

Q. Would you have any objection to him having those pictures back?

A. Not as far as I am concerned. [235]

Q. But you can take them and just blithely wipe them off your mind and memory?

A. I did not take the pictures.

Q. But you were present, were you not?

A. Yes, sir.

Q. On the expedition, made the search while Mr. Harkabus got his gun there?

A. Mr. Harkabus did not hold a gun on Mr. Kehert in the room at any time.

Q. You sure of that?

A. I am positive.

Q. Who was guarding the prisoner while the search was being made?

A. He was sitting down on the bed part of the time, and he was standing up part of the time.

Q. And where was Mr. Harkabus during that time?

A. He was in the room.

(Testimony of John W. Worsham.)

Q. And watching the prisoner, Mr. Kehert?

A. Well, I was watching him, too. I was keeping an eye on him.

Q. Just the one eye?

A. From time to time.

Q. What?

A. From time to time I would glance up and look at him, see he was still there.

Q. Mr. Kehert never made any effort to resist, did he? [236]

A. He did not.

Mr. Taylor: I believe that is all, Mr. Worsham.

Redirect Examination

By Mr. Stevens:

Q. Mr. Worsham, did you know where Miss Casey lived at the time before she was put in jail?

A. Before she was put in jail, I did not.

Q. Do you know where she lived at the time you talked to her?

A. She told me she lived at room 4 of the Transient Rooms.

Q. The same room in which Mr. Kehert lived?

A. Yes, sir.

Q. Was there any reason why you went through the procedure of using a gun in connection with Mr. Kehert's arrest?

A. Miss Casey had told us that Mr. Kehert had a weapon, a gun, and further that at the time of the arrest of Mr. Bennett we had found a gun.

Q. And Mr. Worsham, did the Marshal, Acting

(Testimony of John W. Worsham.)

Marshal at that time also participate in the search of the room? A. He did.

Q. And he took some things in connection with the search? A. He did.

Q. And was it not true that he had just arrested Miss [237] Crosby, or I mean Mrs. Bennett on a Territorial charge before, sometime earlier?

A. I heard after going down there that he had arrested her. I didn't have any knowledge at the time that I went there that he had.

Q. But, Mr. Worsham, to your knowledge there were no Federal Warrants outstanding for Mrs. Bennett at that time, were there?

A. No, not to my knowledge.

Q. It was just Mr. Kehert and Mr. Bennett that were arrested on Federal Warrants at that time?

A. Mr. Bennett was arrested first, later Mr. Kehert.

Q. And the arrest made in regard to the women defendants in this case were arrests made upon territorial charges, is that correct, to the best of your knowledge? A. I have heard.

Q. Mr. Worsham, were you present at any time when Miss Casey saw any of the evidence you took from Mr. Kehert's room, after you took it?

A. Yes, I was.

Q. Did you see this material you brought back?

A. She did.

Q. And did she identify it as being her property? A. She told us it was hers.

Q. And did she object to your retaining that

(Testimony of John W. Worsham.)

property? A. No, she did not. [238]

Q. Did she ever come to you and present a demand for that property? A. No, she has not.

Recross-Examination

By Mr. Taylor:

Q. Mr. Worsham, you know what disposition was ever made of the case upon which Miss Bennett and Miss Crosby was arrested?

A. Do you mean territorial?

Q. Yeah. A. No, I do not.

Q. Well, you say you found a gun in Mr. Kerhart's room? A. No, sir.

Q. He had no weapon there at all?

A. Not to my knowledge. I did not find one.

Mr. Taylor: That's all.

Mr. Stevens: That's all for now. Thank you very much, Mr. Worsham.

(Witness excused.)

EDWARD J. HARKABUS

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Edward J. Harkabus. [239]

Q. Mr. Harkabus, during, until recently that is, were you a member of the Federal Bureau of Investigation here in Fairbanks, Alaska?

(Testimony of Edward J. Harkabus.)

A. Yes, I was.

Q. And did you participate in the investigation of this case before the court today against these four defendants? A. Yes, I did.

Q. And were you in charge of that investigation here in Fairbanks? A. Yes, I was.

Q. Mr. Harkabus, when did you first see Marilyn Jean Casey? A. On the 6th of July.

Q. That was of 1953? A. 1953.

Q. And where did you see her first?

A. I first saw her in the United States Attorney's office.

Q. And that was Mr. Gore's office at that time?

A. Mr. Gore's office, yes.

Q. And did you have an interview with Miss Casey on the same day?

A. Yes, at that—we began the interview in Mr. Gore's office after then Acting Marshal McRoberts had advised us that she had been arrested for operation of a bawdy house [240] or vagrancy, I don't recall exactly which; and interviewed Miss Casey and she advised—we asked her how she had, what had been her method of travel from Texas to here, and she said that she had flown up. So then we told her that it was an easy matter to check the records at the border to find out how she actually did come into the Territory of Alaska, so finally she——

Mr. Taylor: Just a moment. I am going to object to the further line of this questioning, your Honor, unless it is shown that at least one of these

(Testimony of Edward J. Harkabus.)

defendants was present. It was a conversation out of the presence of the defendant.

The Court: I will sustain the objection.

Q. (By Mr. Stevens): Well, did you continue interviewing in your own office later that day, is that your statement prior to this?

A. Yes, I did.

Q. Now, this is Government's Identification 30, Mr. Harkabus; are you familiar with that identification? A. Yes, I am.

Q. Did you assist at all in the preparation of that Government's Identification 30, Mr. Harkabus?

A. Yes, I did.

Q. What exactly did you do to prepare it?

A. This statement was, I dictated the preamble wherein it states that this statement was given voluntarily, after asking Miss Casey if she desired to give a voluntary statement [241] and she answered in the affirmative, and no threats or promises of reward or otherwise had been made to her; and we told her that she didn't have to make a statement unless she wanted to, so then the balance of the statement was dictated by Miss Casey with the exception of a few instances, when, for the purposes of clarity and continuity we changed the wording around so it would read more correctly. I read the statement to Miss Casey. She read it herself. I asked her if all the facts in this statement were true and correct and I said if they are I asked her if she desired to sign it, and she did sign it in my presence,

(Testimony of Edward J. Harkabus.)

because my signature is here and in the presence of John Worsham.

Q. And in various places on that statement the initials "M.J.C." appear; did she place the initials on there?

A. Yes, she did. She initialed each correction.

Q. Who actually typed it?

A. Mrs. Chesser of the Marshal's office.

Q. Hers was a stenographic function?

A. That's correct.

Q. That first paragraph, would you tell us whether or not that is the standard form, paragraph used by the FBI?

A. Well, not necessarily a standard, just the fact that no threats or promises have been made to the individual giving the statement so that at a later date if that did occur——

Q. Is it your custom? [242]

A. This is probably my style I might say, yes.

Q. Now, did you suggest any of the answers or any of the content of that statement to Miss Casey?

A. Well, it was Miss Casey's story and she wasn't too familiar with some of the towns. For example, Orville, Washington, and so forth, and I secured road maps as well as the guide of the Alaska Highway in an attempt to help her explain the route of travel.

Q. But did you tell her, for instance, where she stayed in Denver, Colorado?

A. No, she told me where she——

Mr. Taylor: Just a moment, your Honor. We are

(Testimony of Edward J. Harkabus.)

going to object again to that conversation made out of the presence of the defendants, swinging right back into it again.

The Court: Objection overruled.

A. Would you repeat your question again?

Q. (By Mr. Stevens): I said did you tell her where she stayed in Denver, Colorado?

A. No, I didn't tell her. She told me. I wouldn't know otherwise where she had stayed.

Q. Had you had any information concerning any fact related to this case prior to the time you were notified by Miss Casey?

A. No, I had not. [243]

Q. And this statement was taken in conjunction with the first part of your investigation of this case?

A. Yes, it was.

Q. And did you at that time make any promises to Miss Casey?

A. I did not. No promises were made in my presence at all to Miss Casey, or threats or otherwise.

Q. Now, Mr. Harkabus, did you see Miss Casey subsequently in regard to Government's Identification 31?

A. Yes. This is an affidavit that was an affidavit of facts which was filed before the United States Commissioner on July the 8th of 1953, and I recall at the time that this affidavit was filed that Mrs. Nordale asked Miss Casey if she had read it and was fully aware of the content of this affidavit. She said that she was and it bears her signature and the signature of Mrs. Nordale.

(Testimony of Edward J. Harkabus.)

Q. And did you prepare that as an affidavit for a statement of fact in connection with your investigation?

A. As I recall, this is just a brief excerpt of the original statement furnished by Miss Casey and it was prepared by Mrs. Zimmerman.

Q. In my office? A. In your office.

Q. At that time it was prepared at Mr. Gore's request, is that it? A. Yes. [244]

Q. And was that to your knowledge pursuant to the authority to take an affidavit of facts in connection with the filing of a case in the Commissioner's Court?

A. Well, sometimes in cases of this type we secure an affidavit of facts.

Q. And was that made voluntarily by Miss Casey?

A. Well, her signature is on it, Mr. Stevens.

Q. Well, I mean did you threaten to put her back in jail if she did not sign it?

A. For the record I would like to have this point very clear that at no time did I ever make any threats or promises to Miss Casey. I didn't tell her that she would be removed from jail, placed in jail, or any other thing along that line.

Q. Well, now, Mr. Harkabus, in connection with this interrogation, did Miss Casey tell you where she was living at the time? A. Yes, she did.

Q. And where was that?

A. She told me she was living at room 4 of the Transient Rooms with the defendant Mr. Kehert.

(Testimony of Edward J. Harkabus.)

Q. Did she tell you in particular any property that she had in that room?

A. She told us that she had a baby Brownie camera and several rolls of film that she had taken en route up the highway as well as clothes, her own clothes.

Q. This is Government's Identification 43. Would you tell us what that is, please? [245]

A. This is a baby Brownie camera recovered in the room of Wesley Kehert on July 6th, 1953, at room 4 of the Transient Rooms.

Q. And did you ever show that camera to Miss Casey? A. Yes, I did.

Q. Did she identify that camera?

A. Yes, she did.

Q. And did she make a demand from you to give it back to her?

A. At the time we went out there she said that she would like to have her camera and wanted to know if we would get it. Well, inasmuch as it was evidence we got it and told her it would be returned to her upon completion of this trial. She said that was fine with her.

Q. Now, these are Government's Identification 38 through 42, Mr. Harkabus. This is 38. Would you tell us if you know what that is, please. What is the written material that is contained inside of the paper that you have in your hand there, Mr. Harkabus?

A. Well, this is in my handwriting. This film was obtained from Wesley Kehert's room, room No.

(Testimony of Edward J. Harkabus.)

4, Transient Rooms. It was a camera. This film was developed in my presence by Earl Wyman, 534 Second Avenue, on July 7, 1953, and identified by punch mark and this note bears my signature. I can recognize the negative. This was sealed. This container was sealed. This is a negative here. It isn't very clear. [246]

Q. Could you identify similarly the other four rolls? A. I beg your pardon?

Q. Would you identify similarly the other four rolls there?

A. Yes. This is Number 3, incidentally.

Q. They are in line, Mr. Harkabus, from the other end.

A. This is film obtained from Wesley Kehert's room on 7-6-53, Number 4, Transient Rooms, and developed in my presence by Earl W. Wyman and his address, on July 7, 1953. It bears my initials. It also bears the arbitrarily designated punch marks with which I punched the negatives in the dark-room, of Mr. Wyman's studio. This is Number 39. This is film obtained from Wesley Kehert's room on July 6th, Room Number 4, Transient Rooms; film was developed in my presence by Earl W. Wyman, 534 Second Avenue, 7-7-53. It bears my initials. It also bears the punch marks as indicated previously.

Q. That is Identification 40?

A. This is No. 40, yes. This is the same film obtained from Wesley Kehert's room on 7-6-53, No. 4, Transient Rooms, developed in my presence by Earl W. Wyman on 7-7-53, bears my initials and the punch marks. That is No. 41.

(Testimony of Edward J. Harkabus.)

This is No. 42. This is identical with the other ones. Film obtained from Wesley Kehert's room 7-6-53, Room Number 4, Transient Rooms, and developed in my presence by Mr. Wyman on [247] 7-7-53.

Mr. Stevens: Would you care to take the recess at this time, your Honor?

The Court: Yes, ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 11:00 a.m., the court took a recess until 11:10 a.m., at which time it reconvened and the trial of this cause was resumed.)

The Court: Counsel stipulate all members of the jury are present?

Mr. Taylor: Defendant so stipulates.

Mr. Stevens: We so stipulate, your Honor.

The Court: Very well. Proceed.

EDWARD HARKABUS

the witness on the stand at the time the recess was taken, resumed the stand for further

Direct Examination

By Mr. Stevens:

Q. You identified the last Government's Identification 42? A. Yes, I did.

Q. And those—were those all developed in your presence? A. Yes, they were.

Q. And they were all identified by Miss Casey, is that your testimony?

(Testimony of Edward J. Harkabus.)

A. The prints and the negatives were both identified by Miss Casey, yes.

Q. Now, Mr. Harkabus, I hand you [248] Government's Identifications 1 through 29, a set of pictures; would you tell us, please, one by one, what those are and who put the writing on them?

A. Well, I would like to explain that the rolls were numbered just with a arbitrary number. We had no way of knowing exactly when and where, in what order they had been shot. Therefore, we designated roll No. 1 and I punched one punch mark into the negative and each print is subsequently identified with that roll. For example, Roll No. 1, photograph 1, which is what I hold in my hand at this time. The handwriting on the back is mine, and Miss Casey looked at each one of the prints and told me——

Mr. Taylor: Your Honor, we are going to object to what Miss Casey told him.

The Court: Objection overruled.

A. Miss Casey told me where the photographs were taken to the best of her recollection, who the individuals were in each one of the pictures and this one is a photograph it states Roll No. 1, taken from camera, photograph No. 1, Jack Bennett and Betty Bennett standing near Wesley Kehert's Buick, taken after crossing the border at Snag, Yukon Territory.

Q. (By Mr. Stevens): Is that your handwriting; you put that on the bottom?

A. Yes. [249]

Q. Is that Government's Identification 1?

(Testimony of Edward J. Harkabus.)

A. This is Government's Identification 1.

Q. Thank you.

A. Government's Identification No. 2—these are not in order according to pictures, I see—by your exhibit number. Roll No. 2, Picture No. 4, is a photograph of Norma Crosby. This is Government's Identification No. 3, Roll No. 2, Picture No. 8, Wesley Kehert and Marilyn Casey.

Mr. Taylor: Where was that taken? I don't want to interrupt for each individual picture, but I believe it would be a good idea to see where each one was taken, the location of the shot.

Q. (By Mr. Stevens): Well, Mr. Harkabus, can you tell from your own knowledge where those pictures were taken?

A. Well, as I recall, this one it was taken in British Columbia near the 150 mile house on the British Columbia Highway No. 2.

Q. And where did you secure that information?

A. Well, I secured that from Miss Casey because she was standing in a subsequent photograph in this same row at the 150 mile house and stated that this gas station which is in Government's Exhibit No. 3 was in the immediate vicinity.

Government's Identification No. 4 is Roll No. 2, Picture No. 7, photograph of Fern Bennett, Wesley Kehert and Carrol Ward. This was taken in the front of this same gas [250] station that I have previously outlined in Government's Exhibit No. 3.

Roll No. 2, Picture 3, is Government's Identification No. 5, left to right, Marilyn Casey, Norma

(Testimony of Edward J. Harkabus.)

Crosby, Carolyn Ward, Steve Williams which is an alias of Wesley Kehert.

Government's Identification No. 6, Roll No. 2, Picture No. 1, Carolyn Ward, Fern Bennett, Norma Crosby, Wesley Kehert, and a photograph of the Mercury automobile. This was taken at the same gas station, at 150 mile roadhouse.

Government's Identification No. 7, Roll No. 2, Picture No. 2, photograph of Norma Crosby, Marilyn Casey, Carolyn Ward, Fern Bennett, and the Mercury with the Texas license KS 7118. This was taken in the vicinity of the 150 mile house.

Government's Identification No. 8, Roll No. 3, Picture No. 3, photograph of Jack Bennett, the Buick, Bennett's Cadillac, the Mercury, at 150 mile house on British Columbia Highway No. 2.

Government's Identification No. 9, Roll No. 3, Picture No. 2, Norma Crosby, Fern Bennett, Carolyn Ward, the back of Wesley Kehert's Buick, Jack Bennett's Cadillac taken at 150 mile house. It is the same gas station.

Government's Identification No. 10, Roll No. 3, Picture No. 1. It is a photograph of Wesley Kehert. I don't know where it was taken.

Government's Identification No. 11, Roll No. [251] 3, Picture No. 4, is a photograph of Marilyn Casey taken by Wesley Kehert at 150 mile house, British Columbia Highway No. 2. There is a sign in this photograph showing that it is 150 mile house.

Government's Identification No. 12, Roll No. 3, Picture No. 8, is a photograph of a small town in

(Testimony of Edward J. Harkabus.)

British Columbia taken by Marilyn Casey from inside of Mr. Kehert's Buick. This town, according to Miss Casey, is located below 150 mile house.

Government's Identification No. 13, which is Roll No. 3, Picture No. 7, is a photograph of Jack Bennett and Wesley Kehert purchasing ice in a small British Columbia town. No name.

Government's Identification No. 14, Roll No. 4, Picture No. 2, photograph of Williams and Bennett, Mercury and Buick on the Alcan Highway.

Roll No. 4, Picture No. 1—this is Government's Identification No. 15—Jack Bennett, Norma Crosby on the Alcan Highway and the Mercury automobile.

Government's Identification No. 16, Roll No. 4, Picture No. 8, taken by Marilyn Casey on a broken-down bridge in British Columbia.

Government's Identification No. 17, Roll No. 4, Picture No. 7, Marilyn Jean Casey, the Buick, and I don't know the location.

Government's Identification No. 18 is Roll [252] No. 4, Picture No. 4, photograph of Wesley Williams and Fern Bennett embracing.

Government's Identification No. 19 is Roll No. 4, Picture No. 5, Fern Bennett, Jack Bennett, Carolyn Ward, Norma Crosby and the photograph of Mr. Bennett's Cadillac.

Government's Identification No. 20, Roll No. 4, Picture No. 3, Norma Crosby, Fern Bennett, and, according to the notation here, Steve Williams possibly took the picture.

Government's Identification No. 21, Roll No. 5,

(Testimony of Edward J. Harkabus.)

Picture No. 2. It is a crane on a bridge taken by Marilyn Casey. This was taken about ten miles from Haines Junction cutoff.

Government's Identification No. 22 is Roll No. 5, Picture No. 1, a pile-driver taken by Marilyn Jean Casey at a broken-down bridge about ten miles from Haines Junction cutoff.

Government's Identification No. 23, Roll No. 5, Picture No. 3. It is the same bridge as I have previously described.

Government's Identification No. 24 is Roll No. 5, Picture No. 8. It is a photograph of the Alaska border showing the Alaska sign and according to Miss Casey this was taken by Steve Williams or Wesley Kehert, excuse me.

Government's Identification No. 25, Roll No. 5, Picture No. 7, is a photograph of the Buick parked on a washed-out bridge about thirty miles from the Canadian border, [253] taken by Mr. Kehert, according to Miss Casey.

Government's Identification No. 26, Roll No. 5, Picture No. 6. This is the same location as the pile-driver that I have previously described on the bridge.

Government's Identification No. 27, Roll No. 5, Picture No. 5, is on the same bridge.

Government's Identification No. 28, Roll No. 5, Picture No. 4, photograph of Marilyn Casey sitting on the rail of this bridge, taken by Mr. Kehert.

Government's Identification 29 is Roll No. 4, Pic-

(Testimony of Edward J. Harkabus.)

ture No. 6, Marilyn Jean Casey, the Buick, and it was taken between Whitehorse and the Alaska-Canadian border.

Q. Thank you, Mr. Harkabus. This is Government's Identification 45. Would you tell us have you seen that before? A. Yes, I have.

Q. Where did you see that?

A. To the best of my recollection this was picked up by Mr. Worshman at Mr. Kehert's room at the Transient Rooms, and prior to this time Miss Casey had advised us that Jack Bennett, Fern Bennett, and Norma Crosby had stayed at the Royal Motel in Denver, Colorado, and Miss Casey had stated that while in Denver she had made a purchase of slacks or pedal pushers at a store in Denver.

Q. This is Government's Identification No. 46; will you tell us what that is, please? [254]

A. This is the name of the shop, this is a bag from the shop where Miss Casey stated that she had purchased these slacks or pedal pushers and it was taken from Mr. Kehert's room at the time of his apprehension by Special Agents Worsham and myself.

Q. Now, Mr. Harkabus, these are twenty-two coupons, Government's Identifications 35 and 36, which are two separate coupons and Government's Identification 44 comprises twenty coupons. Would you identify those for us, please?

A. Identifications 35 and 36 are gasoline coupons on a credit card issued in the name of W. W. Bennett at Denver, Colorado, and they bear my initials.

(Testimony of Edward J. Harkabus.)

These were seized from Mr. Bennett's person at the time of his apprehension at Room 404 of the Fifth Avenue Annex. The others—are the rest of these numbered as exhibits, Mr. Stevens?

Q. All twenty coupons comprise one Identification 44, Mr. Harkabus. There are two separate—

Mr. Taylor: I think at this time, Mr. Harkabus, you just state generally what they are and not who they are made out to.

Mr. Harkabus: I beg your pardon.

Mr. Taylor: I think you should state just now just generally what they are, not the details of them.

Mr. Stevens: I will ask the questions, Mr. Harkabus.

A. All twenty of these gasoline coupons were found in the possession of Mr. Bennett at the time of his apprehension on July 6th. [255]

Q. (By Mr. Stevens): And were they actually on his person?

A. Yes, they were. They were in his wallet.

Q. Mr. Harkabus, do you know who W. W. Bennett is?

A. That is Mr. Bennett's father.

Q. Mr. Harkabus, going back to Miss Casey, did you see Miss Casey after she signed the second affidavit, or the affidavit which is the second document in question here? A. Yes, I did.

Q. And where did you see her next?

A. She was in my office at that time, and as I recall it was in August. I can't recall the exact date.

(Testimony of Edward J. Harkabus.)

I have seen her subsequent to that time on several different occasions. On one occasion prior to the preliminary hearing with Special Agent Worsham, and that was October the 20th, I believe. I'm not positive of that date, and then again in November the 21st, 1953.

Q. Now, at the time you saw her before the preliminary hearing, would you tell us whether or not that was at my request to see whether or not she was still in town?

A. Yes, that's correct.

Q. And at that time did you make any threats or promises to Miss Casey? A. I did not.

Q. And did you see her after the preliminary hearing? A. Yes, I did.

Q. And when did you see her after the preliminary hearing? [256]

A. That was on November 21st.

Mr. Taylor: What date?

Mr. Harkabus: November 21, 1953.

Q. (By Mr. Stevens): Who were you with at that time?

A. Special Agent Sullivan also of the FBI.

Q. And where were you when you saw her?

A. At the residence of Neil Robertson, 20th and Liska.

Q. That is also the residence of Ed Gines?

A. Oh, no, the residence of—on one occasion I saw Miss Casey at the residence of Ed Gines which

(Testimony of Edward J. Harkabus.)

was prior to the preliminary hearing when we interviewed her at your request.

Q. And then this time subsequent to the preliminary hearing when you were with Mr. Worsham it was at Neil Robertson's?

A. I was with Mr. Sullivan at Neil Robertson's and Mr. Worsham at Ed Gines'.

Q. At that time when you were with Mr. Sullivan, did you make any threats or promises to Miss Casey? A. I did not.

Q. What was the purpose of seeing her at that time after the preliminary hearing?

A. Well, I asked Miss Casey if——

Mr. Taylor: Well, your Honor, we are going to [257] object to conversation after the preliminary hearing—not binding upon these defendants.

Mr. Stevens: Your Honor, I believe it all goes to the weight that the jury may give to the statement which——

The Court: Objection overruled.

Mr. Stevens: Thank you.

A. I asked Miss Casey why she had gone back on her original statement when our investigation corroborated all the facts that she had furnished to us in her statement.

Mr. Taylor: Just a moment, your Honor. I'm going to object to this line of testimony. I think when a person impeaches their own witness they can show that they made contrary statements to what they testified to on the stand, and they can't go into the details of it. I think if Mr. Stevens wants to im-

(Testimony of Edward J. Harkabus.)

peach his own witness, Miss Casey, that he can ask this man if Miss Casey made contrary statements to that, but I don't think they can go into conversations, your Honor.

The Court: I don't agree with you at all about that. You can impeach a witness for everything except they have a bad reputation for truth and honesty. You can impeach them on any other subject. The objection is overruled.

Q. (By Mr. Stevens): Will you continue, please Mr. Harkabus?

A. Well, I asked Miss Casey then if she was going to [258] tell the truth before the grand jury, and what was the truth, actually. So she said that I should know because she couldn't possibly fabricate the facts which had been borne out by investigation to the point where it would all stand up. Then she asked me what I wanted her to say and I advised her at that time that I didn't want her to say anything except to tell the truth before the grand jury and that was sufficient. That generally was the extent of the conversation with Miss Casey.

Q. Now, Mr. Harkabus, did anyone else to your knowledge make any threats or promises for the statement which you took on the 6th of July?

A. No. Absolutely no.

Q. When you went to Mr. Kehert's room at the Transient Rooms, Mr. Harkabus, did you find any of Miss Casey's things in that room other than that are here today?

Mr. Taylor: We object, your Honor, upon the

(Testimony of Edward J. Harkabus.)

grounds that the other things would be the best evidence, no statement about them.

The Court: Objection overruled.

A. Frankly, I don't know what Miss Casey's things were, but she did state that——

Mr. Taylor: We are objecting to what she stated was in there. I think it is as to what Mr. Harkabus found in there, your Honor. [259]

The Court: I think you can state what she said.

A. What she said, yes, sir. She advised us that she had clothes in Mr. Kehert's room and that she was living there with him at that time and from her description of several articles of clothing they appeared to be identical from her description and I believe that, in fact I believe she subsequently——

Mr. Taylor: We are going to object to what he believes, your Honor—a conclusion.

The Court: Just tell what you know.

A. Well, the clothes were identified as being hers, your Honor. Did that answer your question, Mr. Stevens?

Mr. Stevens: Yes. Thank you, Mr. Harkabus.

The Clerk: Government's Identification No. 47 and Government's Identification No. 48.

(Room key for room 405, 5th Avenue Hotel, was marked Government's Identification No. 47; room key for room 404, 5th Avenue Hotel, was marked Government's Identification No. 48.)

Q. (By Mr. Stevens): These are Government's

(Testimony of Edward J. Harkabus.)

Identifications 48 and 47, Mr. Harkabus; would you tell us what those are, please?

A. Nos. 47 and 48. No. 47 is a numerical designation for Room 405 in the Fifth Avenue Hotel and No. 48 is a key to Room 404 in the Fifth Avenue Hotel, which were taken at the time that Mr. Bennett was arrested. [260]

Q. And did you inform the owner of the hotel that you wished, or the person in charge that you wished to keep those?

A. I told Mrs. Whispell that we were taking these and upon completion of the trial they would be returned to her. At the time Mr. Bennett was arrested——

Mr. Taylor: We are going to object to any voluntary statements not evicted by a question.

Q. (By Mr. Stevens): At the time Mr. Bennett was arrested did you ask him any questions concerning these keys, Mr. Harkabus?

A. Yes, I did.

Q. And what did you ask him?

A. I asked him if——

Mr. Taylor: We are going to object, not the proper foundation laid for the question. Time, place, presence of other persons.

Q. (By Mr. Stevens): Mr. Harkabus, is this the same time you have already described that you were in the company of Mr. Worsham and you made the arrest of Mr. Bennett?

A. This was on July 6th at the Fifth Avenue Hotel at 5:01 p.m., when Special Agent Worsham

(Testimony of Edward J. Harkabus.)
and I went to Room 404 of the Fifth Avenue Hotel and arrested Mr. Bennett.

Q. Now, will you tell us what you asked him, please?

A. I asked Mr. Bennett if—— [261]

Mr. Taylor: Who else was there?

Mr. Stevens: Your Honor, I am going to ask that Mr. Taylor make his objections to the Court and wait to ask questions of the witness until he has the right to cross-examination, if you please.

The Court: Address yourself to the Court, Mr. Taylor.

Q. (By Mr. Stevens): Did you ask him a question, Mr. Harkabus?

A. I asked him if he was living there alone.

Q. And what did he tell you?

A. And he said that he was.

Q. And did you ask him to explain the key to the other room?

A. I asked him to explain the key to the other room as well as some unmentionables which were feminine in nature that were hanging in the bathroom.

Q. And what did he say?

A. Well, Mr. Bennett at that time stated that some of the girls from next door had been washing their things in there.

Mr. Stevens: Your Honor, at this time the government offers into evidence Government's Identifications 1 through 29 to be one exhibit. We believe they should be one exhibit. They have all been

(Testimony of Edward J. Harkabus.)

identified as having come into possession of the government at the same time, have [262] been identified by Miss Casey and are pictures taken on the trip from Texas to Fairbanks, Alaska.

Mr. Taylor: We object, your Honor, to the introduction of these pictures, that they are retouched photographs, contain testimony of persons not under oath; on the back of them that they have been marked in by this witness at a long time prior to this, and no explanation, your Honor, has been made for the introduction of them. A lot of them they don't know where they have been taken. Those should all be eliminated from these identifications or exhibits. I think they in no way connected with these defendants or this trip, can't see where they go to prove any of the facts of the case, your Honor.

The Court: Objection overruled. They may be admitted.

The Clerk: Government's Exhibit E (1 to 29).

(Government's Identifications 1 through 29 were received in evidence as Government's Exhibit "E (1 to 29).")

Mr. Stevens: At this time, your Honor, the government offers also as one exhibit the five rolls of film from which Government's Exhibit "E" were printed.

Mr. Taylor: We object, your Honor, upon the grounds that they were seized without a valid Search Warrant, without any Search Warrant at all, and not incident to any arrest.

(Testimony of Edward J. Harkabus.)

The Court: Objection overruled. [263]

The Clerk: Government's Identification 38 is Government's Exhibit "F"; Identification 39 is Exhibit "G"; Identification 40 is Exhibit "H"; 41 is "I," and 42 is "J."

(Government's Identifications 38 through 42 were received in evidence as Government's Exhibits "F" through "J," inclusive.)

Mr. Stevens: And the government offers into evidence Government's Identification 43. This is the camera which was taken at the same time, your Honor, and I point out that the question of the validity of the search involved in this case has already been decided by the Court.

Mr. Taylor: I am raising a question again, your Honor, for the record that the search, the introduction of these things upon the grounds that the search was invalid, not incidental to an arrest, no valid Search Warrant had been issued when they had plenty of opportunity to obtain a Search Warrant, your Honor.

The Court: Objection overruled; may be admitted.

The Clerk: Government's Exhibit "K."

(Government's Identification No. 43 was received in evidence as Government's Exhibit "K.")

Mr. Stevens: We offer Government's Identifications 35 and 36 and 44 as one exhibit likewise,

(Testimony of Edward J. Harkabus.)

your Honor. These are coupons taken from the person of Mr. Bennett at the time he was [264] arrested.

Mr. Taylor: Your Honor, we are going to object to those, that they were the property of the defendant. They do not go to prove any of the material elements of the crime charged in the Complaint; that they were seized without a valid Search Warrant. They were not seized as incident to an arrest; that at the time they were seized that Mr. Bennett had been under arrest, had been in jail and was taken from the jail back to the Fifth Avenue Hotel so he would be there so he could serve a Warrant on him and make a search of the premises. We think, your Honor, it is strict evasion of the law regarding Search Warrants. We feel, your Honor, that those coupons are not admissible in evidence and for the further reason they do not connect these defendants with the commission of any crime or the crime charged in the Indictment.

The Court: Objection overruled. It may be admitted.

The Clerk: Identifications 35 and 36 and 44 are Government's Exhibit "L."

(Government's Identifications 35, 36 and 44, were received in evidence as Government's Exhibit "L.")

Mr. Stevens: We would like to offer into evidence Identification 45, which is a photograph post-

(Testimony of Edward J. Harkabus.)

card of the Royal Motel which has been identified in a similar manner, was taken from the room in which Mr. Kehert was found and had been identified as the property of Marilyn Jean Casey.

Mr. Taylor: Your Honor, the only person asked about that was Mr. Worsham and he said he couldn't identify [265] it as the Royal Motel in Denver. He says it is just a picture that he saw. We are going to object. There is no identification to that being it.

The Court: Objection overruled. It may be admitted.

The Clerk: Government's Exhibit "M."

(Government's Identification No. 45 was received in evidence as Government's Exhibit "M.")

Mr. Stevens: And we offer into evidence at this time the shopping bag in which the camera, the film and the post card were found. This is Government's Identification 46, your Honor.

Mr. Taylor: We object, your Honor, upon the grounds it is incompetent, irrelevant and immaterial, do not tend to prove any of the material issues of the crime charged in the Indictment, to wit, the transportation of a person for the purpose of prostitution, or any of the elements of a conspiracy to violate the laws of the United States.

The Court: Objection will be overruled. It may be admitted.

The Clerk: Government's Exhibit "N."

(Testimony of Edward J. Harkabus.)

(Government's Identification No. 46 was received in evidence as Government's Exhibit "N.")

Mr. Stevens: We would like to offer into evidence Government's Identification 30, which is the statement of Marilyn Jean Casey, on the ground that it is a prior inconsistent statement of the witness before the court and it should [266] be admitted in order that the jury may give the proper weight to the testimony of this witness before the court.

Mr. Taylor: We are objecting to that, your Honor, on the grounds that it was made under duress, threats, promises and was prepared according to the testimony of the witnesses by others than Miss Casey. We don't feel, not sworn to, your Honor, and would have no bearing upon the issues of this case.

The Court: Objection overruled. It may be admitted.

The Clerk: Government's Exhibit "O."

(Government's Identification No. 30 was received in evidence as Government's Exhibit "O.")

Mr. Stevens: The government makes a similar offer for Government's Identification 31, which is an affidavit signed by Marilyn Jean Casey under oath which contains excerpts from the Government's Exhibit "O," your Honor, made two days later, after it.

(Testimony of Edward J. Harkabus.)

Mr. Taylor: We object, your Honor. That was a statement prepared by Mrs. Zimmerman in the office of the United States Attorney and not from information received from Miss Casey but was prepared and words used in there that Miss Casey had no knowledge of. It is not her statement.

The Court: Objection overruled. It may be admitted.

The Clerk: Government's Exhibit "P."

(Government's Identification No. 31 was received in evidence as Government's Exhibit "P.") [267]

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: If the court please, we will be quite awhile with this witness. I wonder if we could take the recess now.

The Court: Yes. In a moment we will take a recess until two o'clock, ladies and gentlemen of the jury. In the meantime remember not to talk about the case or the parties or permit anyone to talk about it within your hearing. You are not to talk about or listen to anyone talking about parties to the case. Keep your minds perfectly free from an opinion as to the merits of this case and the guilt or innocence of these defendants until the case is finally submitted to you. Make the adjournment.

The Clerk: Court is recessed until two o'clock.

(Thereupon, at 11:50 a.m., a recess was taken until 2:00 p.m.)

Afternoon Session

(The trial of this cause was resumed at 2:00 p.m., pursuant to the noon recess.)

Mr. Stevens: Your Honor, I would like to ask your Honor's permission in allowing me to put Mrs. Nordale on the stand for the purpose of identifying this Government's Exhibit. Mrs. Nordale was a spectator in this court during the trial after the rule had been invoked, put in excluding witnesses. We are offering her testimony only for the purpose of showing the formal aspects of this affidavit [268] and not for the purpose, for the truth of any of the matters set forth in the affidavit.

Mr. Taylor: We are going to insist, your Honor, that we abide by the rule. Mrs. Nordale was in here all day yesterday when Marilyn Casey was testifying.

The Court: Very well.

Mr. Stevens: Call Mrs. Nordale, will you, please?

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll of the jury.)

The Clerk: They are all present, your Honor.

LA DESSA NORDALE

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. La Dessa Nordale.

Q. And what is your occupation here in Fairbanks, Alaska?

A. United States Commissioner, Fairbanks Precinct, Fourth Division.

Mr. Taylor: Mr. Stevens, at this time, your Honor, I am going to make a formal objection to Mrs. Nordale testifying upon the grounds that she has been a witness, spectator in this courtroom during the examination of a witness, [269] Marilyn Jean Casey, and that to allow her to testify at this time would be a violation of the exclusion rule.

Mr. Stevens: That is correct, your Honor. Mrs. Nordale was in the courtroom.

The Court: I will sustain the objection then.

Mr. Stevens: Very well. Thank you, Mrs. Nordale.

(Witness excused.)

Mr. Stevens: Call Mr. Harkabus back on the stand.

Mr. Taylor: Mr. Stevens, did you finish with Mr. Harkabus this morning?

Mr. Stevens: I believe he is your witness, Mr. Taylor.

EDWARD J. HARKABUS

the witness on the stand at the time the recess was taken, resumed the stand for

Cross-Examination

By Mr. Taylor:

Q. Now, Mr. Harkabus, how long have you been a member of the FBI?

A. Six years, Mr. Taylor, a little bit over.

Q. And are you still connected with the FBI?

A. No, I'm not. I resigned the latter part of January.

Q. And how long were you stationed in or about Fairbanks?

A. Well, intermittently over two years.

Q. Now, calling your attention to the 6th day of July, 1953, did you see Marilyn Casey on or about that date? [270]

A. On July 6th?

Q. Yes. A. Yes, I did.

Q. And had you seen her before that date?

A. I had not.

Q. Did you have any personal knowledge of Marilyn Casey of being arrested prior to that time?

A. Yes, I did. I heard that she had been arrested.

Q. And what time of the day did you talk to Marilyn Casey on the 6th day of July, 1953?

A. Well, I will give you an approximation. I would say it was about ten o'clock or eleven o'clock in the morning.

Q. And where did that examination take place?

(Testimony of Edward J. Harkabus.)

A. It began in the office of then Assistant United States Attorney T. N. Gore.

Q. And who was present?

A. Mr. Gore was present, myself and Special Agent Worsham.

Q. Mr. McRoberts there?

A. I don't recall, Mr. Taylor, whether he was there or not.

Q. And was she brought into the office of Mr. Gore by a Deputy Marshal?

A. I think when I arrived there she was in the office, as I recall it.

Q. But you don't remember whether or not there was a Deputy Marshal there? [271]

A. I don't recall, Mr. Taylor. There could have been.

Q. And that was the first time, though, that you saw Miss Casey? A. Yes.

Q. Well, how long did you question Miss Casey when you were in Mr. Gore's office?

A. Oh, I would estimate that I was there in Mr. Gore's office for approximately a half hour, perhaps longer.

Q. And what, if anything, did you tell Miss Casey in regard to her right to refuse to answer any questions?

A. I told her that she didn't have to answer if she didn't want to.

Q. Did you inform her that she was entitled to an attorney?

(Testimony of Edward J. Harkabus.)

A. She wasn't under arrest. I hadn't arrested her, Mr. Taylor. That wasn't my job.

Q. Isn't it a fact, Mr. Harkabus, that she had been arrested on July 3rd and was under arrest at the time she was in your office?

A. I don't know that of my own knowledge. I didn't arrest her.

Q. You just stated a few moments ago that you knew she was under arrest?

A. I had heard that she had been, yes.

Q. Isn't it customary that if a person is under arrest and brought before you that you inform them that they don't have to make a statement? [272]

A. Yes.

Q. And they are entitled to counsel?

A. Yes.

Q. And do you know whether or not—

A. Not under all conditions, Mr. Taylor. We were—when you are interviewing someone you don't have to say that they are entitled to have an attorney, and that is what we were doing.

Q. But she was in the custody of the United States Marshal at the time?

A. Yes, not my custody.

Q. Well, the custody of the United States is you and the Marshal?

A. No, there is a difference because I had nothing to do with her arrest.

Q. Now, what was the procedure in questioning Miss Casey? A. I don't understand.

Q. What did you say to her as an introductory

(Testimony of Edward J. Harkabus.)

statement or introductory phrase to get this thing under way?

A. Well, I identified myself to her, told her who I was, that I was with the FBI, that she did not have to make a statement to me at that time. I then asked her how she came to the Territory inasmuch as she had been arrested as I recall for the operation of a bawdy house. And at first—— [273] (interrupted.)

Q. Where did you ascertain she was arrested for operation of a bawdy house?

A. Well, I believe Mr. Gore told me, or perhaps Mr. McRoberts.

Q. Isn't it a fact she was arrested for vagrancy?

A. I don't know, Mr. Taylor.

Q. But you are under the impression at this time she was under arrest for operation of a bawdy house?

A. I testified here earlier that she was under arrest for operation of a bawdy house or vagrancy.

Q. And you stated then you told her some of her movements from the states to Alaska?

A. No, I didn't tell her her movements.

Q. She told you how she came to Alaska by car?

A. She first told us she came by plane.

Q. She changed that story, did she?

A. Yes.

Q. And she did come by car? A. Yes.

Q. And now in that examination who was doing the questioning, Mr. Harkabus?

A. I was, and Agent Worsham was.

(Testimony of Edward J. Harkabus.)

Q. Mr. Gore was? A. I believe so.

Q. All firing questions at Marilyn Casey?

A. Well, it isn't—I wouldn't say firing. We asked questions of her, yes. [274]

Q. The usual method is that when the police or officers of the law have a man in custody or a woman in custody they gather around and start shooting questions at them. In all probability you have done that before, haven't you, Mr. Harkabus?

A. I have interviewed several people before, Mr. Taylor, yes.

Q. And a lot of times in examinations such as that you suggest the answers to the witness, do you not?

A. Well, we are fact-finders, Mr. Taylor.

Q. Even if you have to put a fact in the mind of the person that you are questioning?

A. I don't think that that is a true statement. We don't put—— (interrupted).

Q. I am not making a statement. I am asking a question. A. Well, it is speculation.

Q. You can answer it as you see fit.

A. Would you repeat it then, Mr. Taylor?

(The reporter read the question as follows:
“Even if you have to put a fact in the mind of the person that you are questioning?”)

A. I would say that was impossible, Mr. Taylor.

Q. Don't you suggest to them sometimes as to what you think happened, or if you had had prior knowledge you would tell this person, didn't you do

(Testimony of Edward J. Harkabus.)

such and such, or didn't you go such a place? [275]

A. Well, I ask questions, certainly, trying to get at facts.

Q. And sometimes to get a fact out you have to plant that fact in the other party's head, bring it to their attention?

Mr. Stevens: I object to further questions based upon this hypothetical nature, your Honor.

The Court: Objection sustained.

Q. (By Mr. Taylor): Now, on this I believe you testified, Mr. Harkabus, the first paragraph of Government's Exhibit "O," was it you that testified that that is the customary heading that you put on all statements taken from witnesses?

A. I stated that it is in my style, Mr. Taylor, yes.

Q. And is that the statement that you put on there, one that you dictated that to Mrs. Chesser?

A. I testified that I dictated the preamble, Mr. Taylor, because it incorporates all the, that no threats or promises have been made, and the statement can be used in a court of law, which she had been advised of prior to the time that I dictated that.

Q. And did you dictate the greater part of that exhibit, Mr. Harkabus?

A. I testified earlier that certain portions of it for the purpose of clarity that I used my own phraseology in it. However, the substance of the statement was dictated by Miss Casey. [276]

Q. Well, now, Mr. Harkabus, do you know how

(Testimony of Edward J. Harkabus.)

much of a bond that Miss Casey was under at the time, what the bail had been set at to hold Miss Casey in jail? A. I do not.

Q. Did you know that it was ten thousand five hundred? A. I didn't know that.

Q. And you did not make any promises or threats then to Miss Casey? A. I did not.

Q. So then if she testified here that you had promised to release her if she would sign this statement she was in error then; is that right?

A. I never promised Miss Casey anything, Mr. Taylor.

Q. Well, that is not the answer to the question. I say she was in error if she testified to that effect; is that right? A. Yes.

Q. Well, how do you account for the fact, Mr. Harkabus, that the following morning Miss Casey was released without putting up any bond after signing that paper?

A. I want to say without equivocation, Mr. Taylor, that I had nothing to do with the release of Miss Casey. No promises or threats of duress or otherwise were ever made to her by me or anyone else in my presence.

Q. I am asking you then if you have any explanation of why she was released the following morning without putting up any bail? [277]

A. I don't know.

Q. Isn't it unusual for a person to be under a ten-thousand-dollar bail one day and be released

(Testimony of Edward J. Harkabus.)

without any bail the next day, as soon as they get a paper signed they release her. Would that be unusual?

A. Do you want my opinion, Mr. Taylor?

Q. Yes, sir. A. I would say probably.

Q. Now, you remember what hotel Miss Casey said she stopped at in Denver?

A. I don't recall what hotel she said she stopped at, but the card that is in evidence here was the one that she stated Fern and Jack Bennett had stopped at. I believe she said the Westward Ho, something to that effect. That's my recollection.

Q. That is what I was going to ask you if it wasn't the Westward Ho where Marilyn Casey and Mr. Kehert stopped, Westward Ho Hotel?

A. I believe that is what she told me, yes.

Q. And now this other statement that you have here, Mr. Harkabus, the one that was prepared by Mrs. Zimmerman and a stenographer in the office of Mr. Stevens, how did Mrs. Zimmerman happen to prepare that particular statement, if you know?

A. Well, Mrs. Zimmerman typed this and it is excerpts from the first statement that you handed me here, a brief account of the long statement as an affidavit of facts. [278]

Q. And did you furnish the language of this statement, Mr. Harkabus?

A. Let me look at it again, Mr. Taylor.

Q. Because there is some words in there Miss Casey did not know the meaning of and we was

(Testimony of Edward J. Harkabus.)

trying to find out who had furnished the words in that affidavit that is signed by Miss Casey.

A. Well, the story is hers, Mr. Taylor, and I don't know whether, I believe I did dictate this to Mrs. Zimmerman and read it to Marilyn Casey.

Q. Was Marilyn Casey present at the time that you read that, or dictated that to Mrs. Zimmerman?

A. Well, I already had this complete statement furnished by Miss Casey previously and this contains the essence of that statement, Mr. Taylor. And it was read to her, she read it and the Commissioner also asked her if she knew what the contents were.

Q. And where did you go to get Miss Casey, to get her to sign this paper; how did you get her back in?

A. I went to the Village Grill to locate her, Mr. Taylor.

Q. And you brought her in from the Village Grill?

A. She voluntarily accompanied us.

Q. You went out to get her, though, is that right?

A. Yes, she had no transportation.

Q. Well, isn't it a fact that you testified she was driving a Buick car around Fairbanks at that time? [279]

A. I beg your pardon.

Q. Did you testify she was driving a Buick car?

A. I don't recall that I testified as to that.

Q. Possibly Mr. Worsham said so. Then she came in and signed that, although she did not know the meaning of some of the words in it?

Mr. Stevens: I object, your Honor. Mr. Taylor

(Testimony of Edward J. Harkabus.)

is using the plural. I believe she was asked whether or not she knew what the word "cognizant" was. Mr. Taylor is using the plural throughout his whole questioning here, and I wish that he would advise the witness that there was one word that she did not identify.

The Court: I will sustain the objection.

Q. (By Mr. Taylor): Did you explain to her the meaning of the word cognizant?

A. Well, I thought that she was cognizant of the meaning of cognizant.

Q. Well, are you cognizant of the meaning of the word cognizant? A. I believe so.

Q. What is Webster's definition of cognizant?

A. I don't know what Webster's definition of it is, but through usage I think you have knowledge, you recognize it.

Q. That is the Harkabus definition? [280]

A. Well, I haven't completed the balance of my dictionary, Mr. Taylor.

Q. Now, we finally found out who the author of this was, says that, "Norma Jean Crosby drove the aforementioned girls across the Washington-Canadian border with full knowledge that instant girls were going to Alaska to work as prostitutes." Prospectors and prostitutes worked up. What were the "instant girls"? Did you put that word in there? A. Yes, I believe I did.

Q. I think that was one word that Marilyn Casey did not know, too?

(Testimony of Edward J. Harkabus.)

Mr. Stevens: I object to that, your Honor. There has been no testimony like that in this record.

The Court: Objection sustained.

Q. (By Mr. Taylor): Did you—I see you left a blank in here; did you ever find out what word went into that blank space, in a name?

A. If you would show me that, Mr. Taylor. Well, I think it is self-explanatory in the statement, Mr. Taylor. If you will notice, after the blank there is a comma and it states, “whom I have subsequently identified as Carole Ward.”

Q. Do you know where Carole Ward is now?

A. I don't, no, sir.

Q. Now, after you had talked with Marilyn Jean Casey [281] in the office of Mr. Gore, I believe you stated that you took her then down to the office of the FBI?

A. That's correct, yes.

Q. And did you continue your interrogation of Marilyn Casey there?

A. Yes, I did.

Q. And how long did you talk to her there?

A. I don't know exactly, but I would say two or three hours.

Q. Now, wasn't that—isn't it a fact that you talked to Marilyn Casey from around nine or ten o'clock in the morning until five o'clock in the afternoon on the 6th?

A. No.

Q. What?

A. That is not a fact. That doesn't jibe with the times that I gave. I said it was perhaps a half an hour in Mr. Gore's office, and then subsequently

(Testimony of Edward J. Harkabus.)

perhaps two or three hours. I'm not positive of these times, Mr. Taylor.

Q. Did you knock off for lunch?

A. I believe we sent out for lunch.

Q. So that was quite a little chat you were having then?

A. Well, it was a long trip, Mr. Taylor.

Q. Yeah, not too long an affidavit, though. Then after you had talked with Marilyn Jean Casey along sometime in the afternoon, what did you do? [282]

A. I presented the facts to Mr. Gore that I developed to that point and he authorized a complaint be filed against the defendant Mr. Bennett and Mr. Kehert as well as Norma Crosby and Fern Bennett.

Q. And what complaint did you make against Fern Bennett and Norma Crosby?

A. Well, I didn't make the complaint. It was drawn by the United States Attorney's office. I don't know, but it is a matter of record.

Q. And what did you have Mr. Gore charge Mr. Bennett and Mr. Kehert with?

A. I didn't have him charge anybody with anything, Mr. Taylor.

Q. Oh, you didn't?

A. We present the facts, for your information, to the United States Attorney, who makes the decision as to whether or not to issue process.

Q. You then did not make the complaint then?

A. I signed the complaint, yes.

Q. Oh, you signed the complaint. What was the charge against Fern Bennett and Norma Crosby?

(Testimony of Edward J. Harkabus.)

A. I think it was aiding and abetting the transportation of a woman for immoral purpose.

Q. What was the complaint against Mr. Kehert and Mr. Bennett?

A. Well, they were charged, as I recall, with the transportation. [283]

Q. And there was a warrant issued for the arrest of Mr. Bennett and Mr. Kehert? A. Yes.

Q. And what—was a warrant issued for the arrest of Fern Bennett and Norma Jean Crosby?

A. Yes.

Q. And isn't it a fact at the time the warrant was issued for the arrest of Norma Jean Crosby and Fern Bennett that they were in custody?

A. I believe they were, Mr. Taylor.

Q. And isn't it a fact, Mr. Harkabus, that after the warrant for the arrest was issued for Mr. Bennett that Mr. McRoberts found you and told you that Mr. Bennett was being booked at the Federal jail? A. That is not true, Mr. Taylor.

Q. And that he would take him back to his room at the Fifth Avenue so he could come up there and arrest him and search him and the premises?

A. That is not true.

Q. Did you get a telephone call?

A. I did get a telephone call from Mr. McRoberts, yes.

Q. That he had Mr. Bennett in custody?

A. No.

Q. What was the telephone call in essence?

A. In essence the conversation was that Mr.

(Testimony of Edward J. Harkabus.)

Bennett was at Room 404 in the Fifth Avenue Hotel Annex, and I told [284] Mr. McRoberts that I was in the process of securing a warrant for Mr. Bennett at that time.

Q. And did Mr. McRoberts call from the Colonial Annex?

A. I don't know where he called from, Mr. Taylor.

Q. And did you know, or did you afterwards ascertain that prior to the time that you issued the warrant that Mr. Bennett was being processed into the jail here? A. I didn't.

Q. That he was arrested at the same time that Fern Bennett and Norma Crosby was arrested?

A. I didn't know that he had been, Mr. Taylor.

Q. You didn't know that?

A. No, I did not. I don't believe he had.

Q. You didn't know that Mr. Bennett was brought to the jail the same time as his wife and Norma Crosby?

A. Mr. McRoberts didn't indicate that to me in his conversation. He said he had no process for Mr. Bennett.

Q. Well, does Mr. McRoberts always have to have a process to arrest somebody?

Mr. Stevens: I object to that. That calls for an opinion of the witness. Also, I believe Mr. Taylor is stating certain things which he wishes to state he should put himself under oath.

The Court: Objection sustained.

Q. (By Mr. Taylor): Now, after you got the

(Testimony of Edward J. Harkabus.)

warrant you went then to the Fifth Avenue Hotel; is that right? [285] A. The Annex, yes.

Q. And who went with you?

A. Agent Worsham was with me.

Q. And when you got there, who was in the room? A. Mr. Bennett and Mr. McRoberts.

Q. Now, how did Mr. McRoberts happen to bob up on the scene?

A. I don't know. He was there.

Q. Did he have a warrant?

A. I had a Federal warrant for Mr. Bennett.

Q. And what, if anything, did you do when you entered the room?

A. I identified myself to Mr. Bennett as an agent of the FBI, told him I had a warrant for his arrest, that he did not have to make a statement, that any statement he did make could be used against him, that he was entitled to the service of an attorney. I read the warrant to him in its entirety.

Q. Now, at the time that you left the Federal building then, Mr. Harkabus, you knew where Mr. Bennett was, did you not?

A. I knew where he was from what Mr. McRoberts had told me.

Q. And did you when you left the Federal building know that you were going to search his room?

A. I knew I was going to serve the [286] warrant.

Well, as a matter of policy, we made a search incidental to a lawful arrest.

(Testimony of Edward J. Harkabus.)

Q. Could you not have secured a search warrant at the same time you secured the warrant of arrest?

A. On what grounds, Mr. Taylor?

Q. Well, what ground did you search the room?

Mr. Stevens: I object to that, your Honor. I believe the question of the validity of this search has been decided by the Court.

The Court: Well, I think so, too. Everything has been gone into, just a repetition on that particular subject.

Q. (By Mr. Taylor): Now, what was the extent of your search of the room occupied by Mr. Bennett?

A. Well, after I informed Mr. Bennett that he was under arrest I searched his person and found a wallet with the gas coupons in it, and there was money in the wallet, so in Mr. Bennett's presence this money was counted out in the presence of Mr. McRoberts and Mr. Worsham and myself, and as I recall it amounted to eight hundred eighty some odd dollars, eight hundred eighty-three and a few odd cents, and the receipt was to be given. Mr. McRoberts said that he would give Mr. Bennett a receipt when he got over to the Federal jail for these items, and there was a 38, or 380 Spanish revolver that was taken at that time and a 22 caliber Winchester rifle from Mr. Bennett's [287] possession.

Q. And now you arrested Mr. Bennett though, yourself, did you not, Mr. Harkabus?

(Testimony of Edward J. Harkabus.)

A. I was accompanied by Special Agent Worsham and Mr. McRoberts was there.

Q. And you were the one that took the gas coupons, were you not? A. Yes.

Q. Now, isn't it a proper procedure, Mr. Harkabus, for you serving a Federal warrant to give the defendant a receipt for the property that you take?

A. Well, under most conditions it is turned over to the Marshal and in view of the fact that the Marshal was there and said that he would issue a receipt, I saw no need for it, Mr. Taylor.

Q. And isn't it a fact that when you take the things from the room, if there was nobody there you would leave a receipt in the room?

Mr. Stevens: I object to that, your Honor. That is not even involved in the issues before the Court.

Mr. Taylor: I am just asking what the procedure is, your Honor. I think it is perfectly permissible here.

The Court: You are talking about the law in regard to a search warrant?

Mr. Taylor: No, sir, I am talking about the procedure of when property is taken of giving a person from whom it was taken a receipt. [288]

The Court: I think the receipt comes in on the Search Warrant.

Q. (By Mr. Taylor): Now, who got the twenty coupons? A. Pardon?

Q. Who took the, got the twenty gas coupons?

A. Well, I believe Mr. McRoberts had them, and I secured them from him.

(Testimony of Edward J. Harkabus.)

Q. Isn't it a fact that when you went in there——

A. I had them.

Q. That they were laying on top of the dresser at the time you went into the room?

A. I don't believe that is correct, Mr. Taylor.

Q. And now, after you had put Mr. Bennett in jail, where did you go then?

A. Well, later that evening I arrested Mr. Kehert.

Q. Now, just before we go any further, what time was it you went to Mr. Bennett's room?

A. I went into Mr. Bennett's room at 5:01 p.m., on July 6th.

Q. And did you see any evidence of a woman being there? A. Yes.

Q. And did you know that Mrs. Bennett was occupying that room? A. No, I did not. [289]

Q. Have you since found out that Fern Bennett was there with her husband? A. I have not.

Q. Well, isn't it a fact, Mr.——

A. Perhaps I can clear that up for you, Mr. Taylor. I testified earlier today that when I talked to Mr. Bennett he said that he was alone there, and then I noticed some women's unmentionables in the bathroom and asked him if he was wearing those, and he said no, that he wasn't, that the girls from next door had come in to do some washing.

Q. When did you find out Mrs. Bennett was in town? A. I beg your pardon.

Q. When did you find out that Mrs. Bennett had come in town with Mr. Bennett?

(Testimony of Edward J. Harkabus.)

A. Well, Mr. Bennett didn't say that she had come in town with him. He said they had met on the highway coming up.

Q. How is it then, Mr. Harkabus, before you went there you had a Warrant issued for Fern Bennett?

A. Well, I knew she was in town.

Q. Oh, you knew she was in town?

A. Well, she was arrested. You asked me that earlier, Mr. Taylor.

Q. So you naturally assume that those garments were Mrs. Bennett's garments, wouldn't you, these unmentionables, panties and bras and stuff like that? [290]

A. You are asking me for an assumption. I wouldn't assume that.

Q. Well, did you take, did you seize those clothes, too, the woman's clothes that were there?

A. I didn't, Mr. Taylor.

Q. Didn't somebody take the clothes and take them to the jail?

A. I believe Mr. McRoberts did.

Q. And they are still in jail, are they not, in the Marshal's care?

A. I guess so.

Q. Now, at the, after taking Mr. Bennett to jail, you say you went to arrest Mr. Kehert; what time was that arrest made?

A. That was made at nine, perhaps I can fill you in on the time. We allowed Mr. Bennett to take his two dogs to the vet because he had no place to leave them and that took a little time to get down there, and I believe that Mr. Bennett was, arrived at the Federal jail at a little after six, sometime after six.

(Testimony of Edward J. Harkabus.)

The booking sheet would show the exact time, Mr. Taylor.

Q. Now, you turned him in then a little after six then? A. I'm not positive of that.

Q. Well, approximately that?

A. I would say that we had a very brief interview with Mr. Bennett for about fifteen or twenty minutes from about [291] 6:05 to 6:30, and I think perhaps it was around 6:30 that he was booked. I'm not sure.

Q. In that interview, did you inform him of his rights?

A. I advised him as I previously told you that he had the right to have an attorney, that he didn't have to make a statement, that any statement he might make could be used against him.

Q. And you have no statement of Mr. Bennett here to introduce in evidence? A. I have not.

Q. And about nine o'clock you went up to Mr. Kehert's room?

A. At the Transient Rooms, yes.

Q. Where is that located?

A. That was located on South Cushman.

Q. About how far out?

A. Near, somewhere near the Trail's End Motel, I believe. I don't know what the, sixteenth, perhaps. It burned down last summer.

Q. Oh, it has burned since then? A. Yes.

Q. What room did you go to?

A. Room Number 4.

Q. And who was there?

(Testimony of Edward J. Harkabus.)

A. Mr. Bennett—or Mr. Kehert was there.

Q. And how did you gain admission? [292]

A. I rapped on the door, identified myself as a Federal agent.

Q. From the outside?

A. From the outside, and when he opened the door, I entered.

Q. In what manner did you enter?

A. I walked. How do you mean, Mr. Taylor?

Q. I mean what, if anything, did you have in your hand?

A. I had a .38 snub nose in my hand, Mr. Taylor.

Q. And pointed at Mr. Kehert?

A. Yes, sir, because Miss Casey had informed us that he carried a gun, and he had a previous arrest for assault with a deadly weapon.

Q. You found out afterwards that?

A. Oh, I knew that before.

Q. That there was no conviction of any previous?

A. No.

Q. But did you know that before then that there was no conviction on that charge?

A. Pardon?

Q. Did you know before that there was no conviction on that charge?

A. That there was no conviction you say?

Q. Yeah?

A. Well, no, maybe I just read as far as seeing the arrest of assault with a deadly weapon. [293]

Q. No gun though?

(Testimony of Edward J. Harkabus.)

A. I beg your pardon?

Q. You didn't find a gun?

A. I didn't find a gun, no.

Q. Then you handcuffed Mr. Kehert?

A. Yes, I did.

Q. And then you proceeded to search the room?

A. Well, prior to that time I holstered my gun before I handcuffed him, of course, and then I did handcuff him, which isn't unusual when you are arresting a man.

Q. Well, isn't that kind of uncalled for if a man is not making any effort to resist arrest?

A. Well, he had made no effort to resist, but sometimes it acts as a deterrent effect.

Q. Maybe it would be more so if you had put leg irons on him? A. No.

Q. That would have deterred him, wouldn't it?

A. I am not familiar with leg irons. I never used them.

Q. And then what did you do then after you got him shackled? A. After I handcuffed him?

Q. Yeah.

A. Well, he sat down on a chair. It was a rather small room and to the best of my recollection Mr. Worsham [294] found the camera which we were, had been informed by Miss Casey that it was her property, along with the film which I have previously identified here, and the post card there, I believe.

Q. And now, who found this post card?

A. Mr. Worsham, I believe, found that.

(Testimony of Edward J. Harkabus.)

Q. So if Mr. Worsham testified that you found it, he would be wrong?

Mr. Stevens: I object to that, your Honor. There is no such testimony in the record.

The Court: Objection sustained.

Mr. Taylor: I beg your pardon. There is that testimony.

Q. (By Mr. Taylor): Now, you stated that you took Mr. Kehert to jail then? A. Yes.

Q. And what else did you take besides the camera and film and the card? I believe you had a paper bag, did you not?

A. Oh, yes, yes, from Denver.

Q. Anything else?

A. Not that I took, no. There were some clothes there that belonged to Miss Casey I previously testified.

Q. Did you take them?

A. No, I didn't take them. [295]

Q. Well, why did you take Miss Casey's camera then? A. You said why?

Q. Yeah?

A. Well, as a search incidental to the arrest, took it as evidence.

Q. As a search incidental to an arrest you can take the property of the person being arrested, can you not?

A. We asked him who the camera belonged to. He said it was his. She said it was hers.

Q. Isn't it a fact that at the preliminary hearing held before Mrs. Nordale last fall you testified

(Testimony of Edward J. Harkabus.)

that the camera and the pictures were Mr. Kehert's taken them from Mr. Kehert's?

A. We took them from the room.

Q. I am asking you if you did not at the preliminary hearing testify that you took the camera and the films from Mr. Kehert. You attempted to introduce them as taken from Mr. Kehert?

A. I don't recall that, Mr. Taylor.

Q. Now, you were present, I believe, at the preliminary hearing held before Mrs. Nordale at which time the hearing in the case of United States vs. Mr. Bennett, Mr. Kehert, Jean Crosby, and Fern Bennett was heard, was held?

A. Yes, I was there.

Q. What was the outcome of that hearing?

Mr. Stevens: I object to that, your Honor. [296]
The case has now gone through grand jury and the result of a preliminary hearing is immaterial to the issues before this court.

Mr. Taylor: I think it is pertinent, your Honor. I will connect that up in just a moment or two, too.

The Court: Very well.

Q. (By Mr. Taylor): Isn't it a fact that Mrs. Nordale held there was no probable cause and discharged the defendants and their bondsmen?

A. The facts as I recall them, Mr. Taylor, was that it was postponed when I was present at the preliminary hearing, and any action taken subsequent to that. It was postponed because of the illness of Miss Casey. That is my recollection.

(Testimony of Edward J. Harkabus.)

Q. Were you not there, Mr. Harkabus, at the time Miss Casey appeared and testified?

A. I was not there.

Q. Who was there at that time?

A. I don't know. I wasn't there. How could I know?

Q. Well, at the time that you appeared at the preliminary hearing, where was Miss Casey?

A. I believe Miss Casey plead illness at that time when I was there.

Mr. Harkabus: Your Honor, I think we could settle this by getting the Commissioner's records, rather than going on my recollection. [297]

The Court: We can handle it right here, I think, if we can.

Q. (By Mr. Taylor): Well, do you know, Mr. Harkabus, that prior to the convening of the grand jury that brought in the Indictment that these defendants, all four of them, were discharged, the case was dismissed against them?

A. Yes, I knew that. Not of my own knowledge, but I had heard about it.

Q. And during that interval between the time that this case was dismissed and the convening of the grand jury, you still had the property that had been taken from Mr. Kehert and Mr. Bennett in your possession, or the United States, in its possession?

A. I don't know about that, Mr. Taylor, because I didn't have that case. I was in Anchorage at that time.

(Testimony of Edward J. Harkabus.)

Q. And did you know that the guns that was taken from Mr. Bennett was returned to Mr. Bennett?

A. I did not, because I had nothing to do with the guns.

Q. You didn't; didn't you see the guns?

A. The guns were turned over to the Marshal in Mr. Bennett's presence.

Q. And were you present at the time that the camera and the pictures were introduced in evidence in the grand jury? [298] A. Yes.

Q. And did you know that even after the discharge of these defendants that those items had been held by the United States Marshal over the objections of Mr. Bennett and Mr. Kehert when they were discharged?

A. Well, I didn't know what the status of that case was at that time, Mr. Taylor.

Q. You remember when you appeared before the grand jury? A. Yes, I do.

Q. What was the date?

A. I don't recall the date offhand.

Q. Would that be around November 24th?

A. That could be.

Mr. Taylor: Could we have a short recess, your Honor?

The Court: Ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 3:00 p.m., the court took a recess until 3:10 p.m., at which time it reconvened and the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor. [299]

EDWARD J. HARKABUS

the witness on the stand at the time the recess was taken, resumed the stand for further cross-examination.

By Mr. Taylor:

Q. Mr. Harkabus, am I right in assuming that you testified here on direct examination that you saw Marilyn Casey in August sometime at your office?

A. Yes, I believe that is correct, Mr. Taylor.

Q. And did you see her on November the 21st, 1953? A. Yes.

Q. A few days before the grand jury indictment was returned?

A. Yes, I testified to that this morning.

Q. That is where I got that date.

A. Yes, I believe that that date is correct. I gave it as an approximate date.

Q. And then in August, this August meeting you had with Marilyn Casey you say that was at the residence of either Ed Gines or Nels Robinson?

A. No. I believe that I stated that I saw her during August again in order to get more corroborating data, but that I was with Agent Worsham on one occasion, the date of which I cannot recall, at

(Testimony of Edward J. Harkabus.)

the residence of Ed Gines. And that was at the request of Mr. Stevens to see where she was, to locate her.

Q. Now, you testified here something about she had [300] given you some, a description of, I believe, some clothing that belonged to somebody else. Now, what was that?

A. Clothing that belonged to somebody else?

Q. Yeah, I think the clothing of the other girls that came up at the same time she did in the car? You said something, she had given you a description of what they were wearing, that would be on July the 6th, though?

A. I don't recall that, Mr. Taylor, and I don't believe that I testified to that on direct.

Q. I made a note of it, what clothing she had described some clothing?

A. That was her personal clothing is what she was talking about, or at least what I was talking about.

Q. Perhaps I was wrong then in assuming that she was describing the clothing of these others, of Norma Crosby and Mrs. Bennett, but you think she was describing some clothing that she had in the room?

A. That's correct, that is what she stated to me.

Q. Now, I believe you also identified a couple of keys here. Now, what room was Mr. Bennett in?

A. 404.

Q. And it would be natural that he would have

(Testimony of Edward J. Harkabus.)

a key to that room, would it not? A. Yes.

Q. And you know whether his wife was in 404, or 405? A. Do I know? [301]

Q. Yeah?

A. All I know is what Mr. Bennett told me, that he was in there alone and that the girls next door came over to do washing.

Q. Now, you attributed a statement to Marilyn Casey at one time you was talking to her, I believe it was in August, and that she made the statement that she couldn't fabricate her testimony or statement; is that the exact words that she used, that she would be unable to fabricate it?

A. Well, she didn't use the word fabricate.

Q. That was the word you used then, is that right? A. Yes. She said lie.

Mr. Taylor: I believe that is all.

Redirect Examination

By Mr. Stevens:

Q. Now, Mr. Harkabus, in response to a question by Mr. Taylor concerning this preliminary hearing, you said you had heard that the charges were dismissed against these defendants as a result of the preliminary hearing? A. Yes.

Q. I believe you also testified that you appeared at the preliminary hearing? A. Yes.

Q. Now, did Miss Casey appear on the day that you appeared, Mr. Harkabus?

A. She did not. I said that she was ill, or I at-

(Testimony of Edward J. Harkabus.)

tempted to locate Miss Casey and she was sick at that time and [302] couldn't appear, as I recall.

Q. And do you recall whether or not that preliminary hearing was continued at my request?

A. I believe that it was, but I was only there one day, perhaps two days, but it wasn't completed. That's my recollection at that time.

Q. Then you did not appear the day Miss Casey appeared when the hearing was continued to a later date? A. No, I did not.

Q. Well, since you have told Mr. Taylor that you did hear why it was, that the case against the defendants was dismissed, did you hear why the case was dismissed against them?

A. Well, it was my own knowledge. I didn't know anything about the dismissal.

Q. No, but you told Mr. Taylor, did you not, that you had heard that it was dismissed? A. Yes.

Q. Did you hear at the same time why it was dismissed? A. Yes.

Q. Will you tell us what you heard in regard to why it was dismissed?

A. Well, I understand that you, it was discontinued at your request, that the preliminary hearing was.

Q. And did you learn why that was, Mr. Harkabus?

A. I believe because Miss Casey was uncooperative as a witness. [303]

Q. Now, Mr. Harkabus, did you force Miss Casey to go downstairs in this building to your office on

(Testimony of Edward J. Harkabus.)

the 6th day of July, 1953? A. I did not.

Q. But she was downstairs with you and Mr. Worsham at least two or three hours?

A. Yes.

Q. And that was on the 6th day of July?

A. Yes.

Q. And do you know when she was arraigned on the charge which was filed against her under Territorial Law, of your own knowledge?

A. No, I don't.

Q. She was with you the early part of the afternoon on that day? A. Yes.

Q. And Mr. Harkabus, did you have any knowledge of the amount of bond that Miss Casey was being held under?

A. I did not. It had no connection with any of the bureau's functions.

Q. But did she object to you about the amount of any bond, or did she mention at all to you any bond?

A. She did not.

Mr. Stevens: Your witness, Mr. Taylor. [304]

Recross-Examination

By Mr. Taylor:

Q. Mr. Harkabus, isn't it a fact when Miss Casey came up to your office that she was brought up there by the United States Marshal, brought there out of jail?

A. She wasn't brought to my office out of jail, Mr. Taylor. As I said before, she was in the United States Attorney's office when I arrived.

(Testimony of Edward J. Harkabus.)

Q. And then after you got through questioning her along in the afternoon, what did you do with her; just let her out the door of your office?

A. No, I never do that with someone else's prisoner.

Q. Oh, you knew she was a prisoner, then?

A. I beg your pardon.

Q. You took her back up and put her in jail, is that right, or give her to the Marshal?

A. I caled the Marshal.

Q. Who took her down there though to your office?

A. She walked down with us.

Q. Oh, she went down with you?

A. Yes.

Q. You and Worsham?

A. Yes.

Q. Now, you stated in response to a question by Mr. Stevens that you were not present at the time that Miss Casey testified at the preliminary hearing? [305]

A. That's correct.

Q. Where were you on the 21st day of October, 1953?

A. Is that the date of the preliminary hearing, Mr. Taylor?

Q. I am asking you the questions, Mr. Harkabus. It was though. That was the 21st.

A. I was at the preliminary hearing the first day, but I was not at the preliminary hearing because it had been postponed when Miss Casey was there. The evidence was turned over to the United States Attorney and then that was it. I had to go back to Anchorage. I was assigned there.

(Testimony of Edward J. Harkabus.)

Q. Isn't it a fact that you testified that first time you came to the preliminary hearing?

A. Yes, I did.

Q. You offered your testimony?

A. I testified at the first preliminary hearing.

Q. And you put these pictures and films in evidence?

A. They were not admitted in evidence, as I recall.

Q. At the preliminary hearing Mrs. Nordale did admit them, did she not?

A. I don't believe so, Mr. Taylor.

Q. And the coupons, the gas coupons, weren't they marked as exhibits or marked for identification or introduced as exhibits?

A. Yes, they were at that time.

Q. Either one of the two? [306]

A. One or the other, I don't know which.

Q. And then when did you learn that the case had been dismissed by Mrs. Nordale?

A. Just by hearsay. In fact, I read it in the newspaper, I believe.

Q. Then later you were called then to testify before the grand jury in this case, this same case then?

A. Yes, that is correct.

Q. That is, but the Indictment these people are being tried on now returned?

A. Yes, I guess so.

Q. So there was considerable time then between the dismissal of the case by Mrs. Nordale and the

(Testimony of Edward J. Harkabus.)

bringing of the Indictment by the grand jury, was there not?

A. I don't know when it was dismissed exactly, Mr. Taylor, because I wasn't there.

Mr. Taylor: I believe that's all, Mr. Harkabus.

(Witness excused.)

Mr. Stevens: Your Honor, again I request the court to allow me to call Mrs. Nordale. Mr. Taylor is doing a lot of testifying here and I believe she could straighten up quite a few points.

The Court: Well, I think it is the duty of the attorney to keep a lookout and see that witnesses don't get in the courtroom. I don't care to withdraw the rule. [307]

C. M. WRIGHT

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. C. M. Wright.

Q. Mr. Wright, will you tell us where you resided during the months of, between say April and July of 1953?

A. Odessa, Texas.

Q. And what was your profession at that time?

A. A Special Agent for the Federal Bureau of Narcotics.

Q. Do you know Mr. Bennett who is the defendant in this case?

A. Yes, sir.

(Testimony of C. M. Wright.)

Q. Where did you meet Mr. Bennett?

A. In Odessa, Texas.

Q. Do you remember approximately when you met him?

A. I believe the first time I met him after I got my assignment was April the 4th, around there.

Q. And did you make yourself known to Mr. Bennett as a Special Agent for the Bureau of Narcotics?

A. No, sir, I did not.

Q. And why was that, Mr. Wright?

Mr. Taylor: Could I interrupt just a moment. April the 4th of what year?

Mr. Wright: 1953. [308]

Q. (By Mr. Stevens): And why was that, please?

A. Because my assignment was—— (Interrupted.)

Mr. Taylor: Just a moment, your Honor. I am going to object to any testimony as to what his assignment was, made upon suspicion that somebody might have been committing a crime. I think the District Attorney should make an offer of proof of that, what he is expecting to prove by this matter.

The Court: I think Mr. Taylor is correct.

(Thereupon, the attorneys approached the bench, and the following proceedings were had out of the hearing of the jury.)

Mr. Stevens: Your Honor, the government offers to prove by this witness that between the time this witness met Mr. Bennett and the time Mr. Bennett came to Alaska he was working as an undercover

(Testimony of C. M. Wright.)

Agent for the Federal Bureau of Narcotics. He was posing as a friend of Mr. Bennett's and had many conversations with him relating to the crime before the court which does not discuss narcotics or any discussion relating to narcotics. Our discussion would be purely relating to the crime before this court, transportation for the purpose of prostitution.

The Court: Well, did the conversation take in anything that is relevant?

Mr. Stevens: Yes, it is. [309]

The Court: Did it take in any admissions of guilt?

Mr. Stevens: We shall offer testimony that Mr. Wright actually discussed this trip to Alaska with Mr. Bennett and the other defendants.

Mr. Taylor: Of course, your Honor, we object to it unless it specifically had to deal with the transportation of Marilyn Casey to Alaska.

Mr. Stevens: It has to do specifically with this trip, your Honor.

The Court: Objection overruled.

(The attorneys withdrew from the bench and the following proceedings were had in the hearing of the jury.)

Q. (By Mr. Stevens): Mr. Wright, calling your attention to sometime in May of 1953, did you have occasion to take any type of trip with Mr. Bennett?

A. Yes, sir.

Q. And where did you take this trip to?

A. I met, myself and Federal Agent Pizzeni met

(Testimony of C. M. Wright.)

Jack Bennett and Carolyn Wright in Amarillo, Texas.

The Court: Jack Bennett you speak of, is he the defendant in this case?

Mr. Wright: Yes, sir.

Q. (By Mr. Stevens): And who else was with you at that time?

A. Federal Agent Herman Pizzeni and Jack Bennett, myself and a woman that was introduced to me as Carolyn Wright. [310]

Q. And where were you at the time?

Mr. Taylor: Just a moment. Could I interrupt?
Carolyn Who?

Mr. Wright: Carolyn Wright.

Mr. Taylor: Wright?

Mr. Wright: Yes, sir.

Q. (By Mr. Stevens): And where were you at the time?

A. At the Mink Club in Amarillo.

Q. And at that time did you have a discussion with the defendant, Jack Bennett?

A. Yes, sir.

Q. What was that discussion?

A. Well, our discussion was—— (Interrupted.)

Mr. Taylor: Now, just a moment. Just a moment. I am going to object unless this is actually in the exact words and what was said by you and what was said by Mr. Bennett.

Mr. Wright: All right.

Mr. Stevens: Just a moment, Mr. Wright, please.
Mr. Taylor makes his objections to the court.

(Testimony of C. M. Wright.)

Mr. Taylor: I am objecting to him making any narrative statement of this, your Honor, but should testify exactly as to the conversation, what was said by each of the parties. [311]

The Court: I think you should direct this to the incident that we have before the court in some form so it won't take in too much scope.

Mr. Taylor: Furthermore, your Honor, I am going to object to any testimony, any testimony that does not concern Marilyn Casey. The crime charged in this indictment is the transportation of Marilyn Casey and a mere conversation prior to that as to any general trip, your Honor, would not have anything, any bearing upon this case now before this court.

Mr. Stevens: Your Honor, the government is prepared to bring this, to bring before this court cases which have been decided which state that all activities of the defendants in a case such as this for a reasonable period of time both before and after the trip alleged, are relevant to the charge before the court in order that the jury may decide the issue of purpose or motive involved in this charge before the court, and we believe this testimony in regard to all the activities of Mr. Bennett within a reasonable time and we have limited it to the month of May, a reasonable time before the trip began, and we believe that all the testimony regarding his activities in Texas and his activities after he arrived in Alaska would be relevant.

(Testimony of C. M. Wright.)

The Court: Proceed.

Q. (By Mr. Stevens): What was that [312] discussion?

A. Well, now to answer that question correctly, I would have to go back to that morning when I explained the reason we were meeting there to begin with.

Q. Proceed.

A. We were to meet Jack Bennett in Amarillo that night at the Mink Club in order to purchase three ounces of heroin. However——

Mr. Taylor: Just a moment. I am going to have to move that the answer be stricken as not responsive to the question, that the jury be directed to disregard the same.

The Court: It may be stricken. The jury will disregard all stricken evidence, including this.

Mr. Stevens: Please confine your testimony, if you can, to just the charge before the court which is transportation for the purpose of prostitution.

Q. (By Mr. Stevens): You had a discussion with him there?

A. Yes, sir. I had a discussion with Jack Bennett that morning and he told me at that time that he had to go to Pampa in order to pick up a prostitute that he was——

Mr. Taylor: What date was that, Mr. Wright?

Mr. Wright: That was on May 15th, 1953.

Mr. Taylor: Just a moment. I am going to object to any testimony unless this witness can testify that the party, that the prostitute to be picked up

(Testimony of C. M. Wright.)

was Marilyn Casey. [313] I don't think that a general statement of this—your Honor, Mr. Stevens made a statement I would like to see him back up with a little law. I would like to have the jury dismissed and let Mr. Stevens bring a statement in here, some law in here that you can bring in evidence of other related offenses.

Mr. Stevens: We have no objection, your Honor, if Mr. Taylor wants a little law.

The Court: You have the authorities there?

Mr. Stevens: I have them right here, yes, sir. Case of Aplin—

Mr. Taylor: Your Honor, I asked that the jury be excused.

The Court: The jury will be excused until called to return to the courtroom.

(Thereupon, the jury withdrew from the courtroom.)

Mr. Stevens: In the case of Aplin vs. United States, 41 Federal 2nd, 495—it is a Ninth Circuit Case decided in 1930, your Honor, involving transportation from Salem, Oregon, to Chico, California. The court held that the prosecution could show the illicit relations of the defendant and the victim in Oregon before their departure, and the relations in the course of the trip and stated, “From these facts and circumstances, the jury might well infer that at least one purpose of the transportation was debauchery, or other immoral purpose.” [314]

In the case of Lawrence vs. United States, 162

(Testimony of C. M. Wright.)

Federal 2nd, 156, a Ninth Circuit Court Case in 1947, a case involving the same act before this court, the court held that the evidence tending to connect the appellant with the commission of other crimes was admissible to prove intent, and in that case it was shown that the appellant, the defendant in that case, had in fact transported another girl and they allowed the evidence of that, the transportation prior to the time of the charge in the Indictment so that the jury could weigh that testimony for the purpose of determining whether or not the motive of the defendant was shown in the case.

The most recent case, and the best case on this subject, your Honor, is Dunn vs. United States, a Tenth Circuit Case in 1951 under the same act again, and the court stated "The necessary intent, purpose, and motive on the part of the accused may be proved by circumstantial evidence. And as bearing upon that essential element of the offense, the conduct of the parties within a reasonable time before and after the transportation may be taken into consideration."

Mr. Taylor: If the court please, I am certainly at a loss to see where any one of these three cases that is cited by Mr. Stevens from some cards he has got here, not from any law books I can see, are applicable in the case. Now, in the case where there was a transportation from Oregon to San Francisco, the fact that there was an illicit relationship between the man and the woman before they left [315] Oregon when they got to Frisco, is certainly not anal-

(Testimony of C. M. Wright.)

ogous to this case at bar where they are trying to bring in something that a man expressed an intent to go some place else a month before and get a girl. We don't know whether he went down there or not. That case is sure out the window; and then on the next case, Dunn vs. United States, the Ninth Circuit Court case, I don't know just what it was. It says there was no evidence of other transportation, your Honor.

Now, of the same parties, the second case is entirely foreign to this one and the one in Dunn vs. United States which he says is the one, the clincher in this matter, your Honor, it says circumstantial, but it is conduct of the parties. In this case it would be the conduct of these defendants and Marilyn Casey, and not the conduct of these defendants with somebody a month ahead of time. I can't see where you can let the bars down and let evidence of related crimes a long time before and maybe afterward than any proof or part of proof in this case.

If the parties were the same I would say those cases might be analogous, your Honor, and they might be persuasive, but not under the circumstances in this case, because those cases there, your Honor, two of them was where the same parties were involved, the same man and the same woman, so it wouldn't be a case that would be in point here. This man is trying to say that months before, a month or two months before Jack Bennett said he was go-

(Testimony of C. M. Wright.)

ing some place and [316] that is all there is to it. We don't think that is permissible.

The Court: The objections are sustained. Now, let's see. Just a moment. The objections of Mr. Taylor as to the question just put to this witness is not.

Mr. Stevens: Yes, that is correct.

The Court: The objection is overruled. You may go ahead in accordance with the authorities you have read.

Mr. Stevens: Very well.

Mr. Taylor: Your Honor, I am a little confused on the court's ruling. Did the court sustain my objection?

The Court: No, I did not. Just the opposite. I overruled your objection.

(The jury re-entered the courtroom.)

The Court: Counsel stipulate all members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

The Court: Very well. Proceed.

Q. (By Mr. Stevens): Now, Mr. Wright, did you see the defendant, Jack Bennett, again, very soon after the 15th of May, 1953?

A. Yes, I saw him May the 18th.

Q. And where did you see him that time?

A. In Odessa, Texas.

Q. And was there anyone with him at that time? [317]

A. Yes, sir.

(Testimony of C. M. Wright.)

Q. Who was with him then?

A. This woman that was introduced as Carolyn Wright.

Q. And what did you do at that time?

A. Well, Jack Bennett and myself, we drove to Big Springs.

Q. Is that Big Springs, Texas?

A. Big Springs, Texas, yes, sir.

Q. And was there anyone with you at that time?

A. No, sir.

Q. And what time of day did you go to Big Springs?

A. It was in the afternoon. I would say approximately one o'clock, somewhere in that neighborhood.

Q. And did you have a conversation with Mr. Bennett as you drove to Big Springs?

A. Yes, sir.

Q. Will you tell us that conversation, please?

A. Jack was talking to me about, that the time before that he had been to Anchorage, Alaska, and——

Q. Please confine yourself only to the issue before this court.

A. Yes, sir. Let me see—and he told me that day——

Mr. Taylor: Now, just a moment. I am going to have to object unless you lay the foundation as to when he was in Alaska prior to that conversation.

Mr. Stevens: Just a moment. Mr. Taylor addresses his objections to the court. You don't have to answer his questions. [318]

(Testimony of C. M. Wright.)

The Court: Objection will be overruled.

A. At that time Jack Bennett told me that he thought that he was going up take his girls back up to Anchorage, and he told me how much money he could make up there.

The Court: Who could make?

Mr. Wright: That Jack Bennett could make through the girls that he would take up there, and he revealed to me some of the things that happened at his prior time, trip to Anchorage.

Q. (By Mr. Stevens): Did you see the other defendants in this case, either Norma Crosby or Betty Bennett or the gentleman seated at the end of the table on that day?

A. Yes, after, when we returned from Big Springs.

Q. By what name do you know the gentleman at the end of the table? A. Steve Williams.

Q. And where did you see these other people?

A. At Jack Bennett's apartment there at the Arrowhead Courts in Odessa.

Q. What time was that?

A. It was rather late in the afternoon, after we had completed our trip to Big Springs and back.

Q. And did you have a discussion with all of these people at that time? [319]

A. I had a discussion with all of them but Steve Williams. When we returned to Odessa, Jack Bennett and Carolyn Wright and Norma (I can't remember her last name) and Betty Bennett were all there at the apartment.

(Testimony of C. M. Wright.)

Q. About what time was it that you returned?

A. It was somewhere around five o'clock.

Q. And what was the conversation you had at that time with all these people?

A. Well, at that time, why after we come back to Big Springs Jack was talking in there to them, and was telling them how much money that could be made in Alaska.

Q. Where did you see Mr. Williams?

A. While we were talking he drove up in a laundry truck.

Q. Where did he get the laundry truck?

A. That I don't know. It was Odessa Steam Laundry truck.

Q. Now, did you make any other trips with Mr. Bennett? A. Yes, sir, I did.

Q. When did you make another trip with him?

A. I believe it was May the 20th. I believe we made a trip to Lubbock.

Q. Is that also 1953? A. Yes, sir.

Q. And who was with you at that time?

A. Norma, the red-headed girl.

Q. And what time did you go? [320]

A. We left Odessa about two-thirty in the afternoon.

Q. Would you describe Norma's appearance on that day?

A. Yes, sir. She had one black eye. It was swollen nearly shut, and one side of her face was bruised very badly with a long scratch down it.

(Testimony of C. M. Wright.)

Q. Did you ask her how this appearance came about? A. Yes, sir.

Mr. Taylor: We object, your Honor, incompetent, irrelevant and immaterial, would have no bearing on this case.

The Court: How is that admissible?

Mr. Stevens: It is a conversation he had with one of the defendants, your Honor, concerning their activities before they came to Alaska.

The Court: Well, this isn't a conversation now describing—— (Interrupted.)

Mr. Stevens: My question, your Honor, I asked this witness whether or not he asked Norma how her physical appearance came about, what caused it.

The Court: Well, offhand I can't see the relevancy. If you want to make an offer to show it is relevant, I will hear it.

Mr. Stevens: Very well.

(At this time the attorneys approached the bench, and the following proceedings were had out of the hearing of the jury.)

Mr. Stevens: Your Honor, the offer is that [321] the answer by the defendant Crosby was that she told this witness that she had been worked over by Jack Bennett because she had been prostituting for nothing, and that after Mr. Bennett got out of the car the conversation continued and that she, the defendant Crosby, discussed prostitution openly and freely with this witness.

Mr. Taylor: I think that would be highly preju-

(Testimony of C. M. Wright.)

dicial, your Honor, don't go to prove any of the material allegations of the Indictment.

Mr. Stevens: It does show the purpose for which they transported this girl to Alaska. That is what we brought this witness before the court for.

The Court: I will sustain the objection.

Mr. Stevens: Very well.

(At this time the attorneys withdrew from the bench and the following proceedings were had in the hearing of the jury.)

Q. (By Mr. Stevens): Now, calling your attention to about the middle of June, were you still seeing Mr. Bennett at that time? A. Yes, sir.

Q. Did you see Mr. Bennett and the other defendants at approximately that time?

A. Yes, sir, I did.

Q. And when was that?

A. I believe it was about the 18th of June, [322] 1953.

Q. And where was that?

A. At Jack Bennett's apartment.

Q. Where was the apartment that time?

A. At the Arrowhead Courts in Odessa, Texas.

Q. And did you have a discussion with these people again at that time? A. Yes, sir.

Q. And what time was it?

A. It was in the afternoon.

Q. And will you tell us again exactly who was present?

A. Well, it was Jack Bennett, myself, and Caro-

(Testimony of C. M. Wright.)

lyn Wright and Betty Bennett and Norma, whatever her last name is.

Q. And what was that conversation?

A. Well, it was about their activities at the place. They were working at the Highway Auto Courts where they were prostituting at.

Q. And will you tell us whether or not the discussion included anything relative to the charge before this court, the transportation to Alaska for the purpose of prostitution?

A. Yes, sir. Jack Bennett was talking to Carolyn Wright and he told her that he had a place in Las Vegas, Nevada, at the Sand Hotel.

Mr. Taylor: Just a moment, your Honor. I am going to object, not responsive to the question.

The Court: Objection overruled. [323]

Mr. Taylor: Now, just a moment. Could I interrupt, if the court please. The question was as to any conversation relative to a trip to Alaska. He is going off into Nevada now on that.

The Court: Well, I will sustain the objection.

Q. (By Mr. Stevens): Tell us the part that was relevant to the trip to Alaska, leaving Nevada out then, will you, please?

A. Well, it is hard to do.

Q. Did your conversation relate in any way to the trip to Alaska? A. Yes, sir.

Q. Did Mr. Bennett discuss before you the trip to Alaska that they subsequently took?

A. Yes, sir.

Q. And do you know of your own knowledge

(Testimony of C. M. Wright.)

that they did leave for Alaska? A. Yes, sir.

Q. And what was the part of the discussion that you had that night on the 18th of June, you said it was? A. Yes, sir.

Q. That pertained to the trip to Alaska, leaving out any reference to Nevada?

A. Well, he told Carolyn that he would leave her at this place on their way to Alaska, about how much money that could be made there. [324]

Q. Do you know whether or not the defendant you know as Steve Williams and Mr. Bennett made a trip to Galveston, Texas?

A. No, sir, I know we had the information that a trip was made.

Q. You have no knowledge of that yourself?

A. Through the bureau, and I have no first-hand knowledge of it.

Q. What type of work were you doing other than your relation to the Federal Bureau at the time we have just been discussing, Mr. Wright?

A. I was doing no work.

Q. Had you had a business prior to that time?

A. Yes, sir.

Q. What was your business?

A. I owned a finance company and a motor company.

Q. And how did you secure the acquaintance of Mr. Bennett?

A. Well, I had known of Mr. Bennett for quite some time in Odessa. I had known of and seen Jack Bennett on several occasions before that time, not

(Testimony of C. M. Wright.)

to personally meet him at all. I had known of him, but I had no personal acquaintance with him.

Q. And did you become a personal acquaintance of Mr. Bennett? A. Yes, sir, I did. [325]

Q. How often during this period that we have been describing did you see him?

A. Well, it was very often, every two or three days at least.

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Tailor: May we have the recess, your Honor.

The Court: Yes, we will take a ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 4:00 p.m., the court took a recess until 4:10 p.m., at which time it reconvened, and the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

C. M. WRIGHT

the witness on the stand at the time the recess was taken, resumed the stand for

Cross-Examination

By Mr. Taylor:

Q. What was your first name, Mr. Wright?

A. C. M. Wright.

(Testimony of C. M. Wright.)

Q. Rice? A. Wright, W-r-i-g-h-t.

Q. Where were you born, Mr. Wright. [326]

A. Leedey, Oklahoma.

Q. Lady? A. Leedey.

Q. How long you been in Odessa, Texas?

A. Since 1948.

Q. Did you go there from Oklahoma?

A. No, sir.

Q. Where did you go from?

A. Lubbock, Texas.

Q. Now, what is this title that you say you have, Mr. Wright? Did you say you was a Special Agent of the——

A. I was a Special Agent for the Federal Bureau of Narcotics.

Q. When was that? A. That was in 1953.

Q. And where did you get your appointment?

A. From Federal Bureau of Narcotics, Agent Tom Bean in Lubbock, Texas. I was assigned to his jurisdiction.

Q. And then you say you also had a finance company? A. Not at that time, no, sir.

Q. Oh, you didn't have it. What did you do with your finance company? A. Liquidated it.

Q. Did you liquidate it or did the bank liquidate it? A. I liquidated it.

Q. When was the first time you ever met Mr. Bennett? [327]

A. The first time I ever met him personally was on April the 4th, 1953.

(Testimony of C. M. Wright.)

Q. 1953, and how long had you been around Odessa at that time?

A. I had been there since 1948.

Q. 1948, and you had never met Mr. Bennett?

A. No, I had seen him.

Q. So all these conversations that you had with Mr. Bennett was between April the 4th, 1953, and the second, and the 18th of June, 1953?

A. That's right, sir.

Q. Between April and June, 1953, and when did you first meet Mr. Kehert?

A. I met—are you referring to Steve Williams, as I knew him?

Q. Well, where did you first meet the gentleman that is sitting at the end of the table down there?

A. I met him I believe it was in May was the first time that I——

Q. About what time in May?

A. Oh, it was, it was between May the 10th and May the 15th.

Q. And was that the time you was—he was driving the laundry truck?

A. Yes, sir, that was one of the times that he was driving the laundry truck. [328]

Q. And what did you say the laundry was?

A. Odessa Steam Laundry.

Q. Odessa Steam Laundry? A. Yes, sir.

Q. And you are absolutely sure that it was Mr. Kehert here, also known as Steve Williams, that was driving that laundry truck? A. Yes, sir.

Q. You talked with him?

(Testimony of C. M. Wright.)

A. Yes, sir, I talked with him.

Q. Now, isn't it a fact, Mr. Wright, that the man that drove the laundry truck was a man named Maxie Hallmark that owned the laundry?

A. No, sir, it isn't. I don't know who owned the laundry.

Q. You don't know it hadn't—

A. What I testified to was that Steve Williams, as he was known to me, drove up to Jack Bennett's apartment at the Arrowhead Courts in this laundry truck.

Q. And that was, you say was the first time you met him? A. What day are you speaking of?

Q. I don't know. You said the date, the middle of May.

A. Yes, that was the first time I ever seen Steve Williams.

Q. Yeah, the middle of May? [329]

A. Steve Williams, yes.

Q. Driving a laundry truck when he came to Mr. Bennett's apartment? A. That's right.

Q. Now, Mr. Wright, if we would show you by conclusive evidence that Mr. Kehert, also known as Steve Williams, was in Anchorage, Alaska, all of May, 1953, would you say you were mistaken?

A. No, sir, I would not.

Q. That he was waiting table at a restaurant that was operated by Larry Stars?

A. No, sir, I would not.

Q. You wouldn't be mistaken? A. No, sir.

Mr. Stevens: Your Honor, I have no objection if

(Testimony of C. M. Wright.)

Mr. Taylor promises to connect up these hypothetical facts he has stated here under oath, but if they are not connected up at a later time I am going to ask the court to strike this testimony of Mr. Taylor's.

The Court: Very well: I will remember it.

Q. (By Mr. Taylor): So you are just as sure of all these things you have testified to as you are that Mr. Kehert was in Odessa, Texas, in the middle of May, 1953?

A. Yes, sir.

Q. All of them are just as true as that? [330]

A. We are talking about Mr. Steve Williams. The rest of what I said is true also.

Q. What?

A. What else I testified to is also true.

Q. So the other is just as true as your statement that Mr. Kehert, also known as Steve Williams, was in Odessa, Texas, during the month of May, 1953?

A. Yes, he was in Odessa in 1953, in the month of May.

Q. And he was driving a laundry truck?

A. Yes, sir.

Q. Now, in May, the 18th, 1953, you say you drove to Big Springs with Mr. Bennett?

A. That's right.

Q. Did you return the same day?

A. Yes, sir.

Q. And you had a conversation with Mr. Bennett about him being in Alaska; do you remember how long before that he had been in Alaska?

A. No, I don't remember accurately.

(Testimony of C. M. Wright.)

Q. Might have been five years?

A. He didn't state what date it was that he had been in Anchorage. However, we knew through the department that he had been there.

Q. That he had been in Anchorage?

A. Yes, sir.

Q. But you don't know when he had been in Anchorage though? [331]

A. I don't know the exact date, no, sir.

Q. Did you know that Mr. Bennett had been in Anchorage for approximately six years?

A. No, I did not.

Q. You didn't know that? A. I did not.

Q. Not through the department?

A. No, sir.

Q. Or through information?

A. I didn't know how long he had been in Alaska.

Q. Or with any conversations with Mr. Bennett?

A. No. What I testified to awhile ago was what Mr. Bennett, or part of what he said. I didn't get a chance to finish.

Q. You know Maxie Hallmark that has the laundry in—— A. No, sir, I don't.

Q. Now, Mr. Wright, do you know a firm named Rainbow Laundry and Cleaners in Texas, or Odessa, Texas? A. Yes, we have one in Odessa.

Q. Now, isn't it a fact it was a laundry truck from the Rainbow Laundry and Cleaners that drove up to Mr. Bennett's apartment?

(Testimony of C. M. Wright.)

A. No, sir, it was the Odessa Steam Laundry truck.

Q. Odessa Steam Laundry. There is an Odessa Steam Laundry?

A. Yes, sir, and also a Rainbow. [332]

Q. Also a Rainbow?

A. Rainbow Cleaners. It is not a laundry.

Q. And that is run by a man named Hallmark, is it not?

A. Which one?

Q. The Rainbow.

A. I don't know who runs it.

Q. A man you know about as Steve Williams?

A. I told you I don't know. I don't know the man.

Q. Isn't it a fact that you have never seen Mr. Kehert before in your life, Mr. Wright?

A. No, sir, it is not.

Q. That you have got him mistaken for somebody else?

A. No, sir, I have not.

Q. Who have you talked this case over with before you came up here?

A. Before I came to Fairbanks?

Q. Yeah.

A. I talked it over last year when I gave the FBI in Odessa the information, after they was apprehended up here.

Q. And was that, was you kind of looking for a trip to Alaska out of that information, Mr. Wright?

A. I certainly was not.

Q. Close out your business; sure you didn't want to tour Alaska?

A. I'm sure I didn't.

(Testimony of C. M. Wright.)

Q. Government expense?

A. I'm sure I didn't. [333]

Q. Now, you say on May the 2nd you went to Lubbock?

A. No, I didn't say I went to Lubbock.

Q. Where did you go?

A. I went to Lubbock on——

Q. May the 2nd?

A. No, I didn't say that.

Q. May the 20th? A. May the 20th.

Q. How long was you gone on that trip?

A. All afternoon.

Q. And on the 18th of June, 1953, you was back in Mr. Bennett's apartment, Arrowhead Apartments?

A. That's right.

Q. Drinking his whiskey, were you?

A. Sure did.

Q. You made a habit to be at Mr. Bennett's quite awhile drinking his liquor?

A. Only when I was trying to purchase narcotics.

Q. And whiskey?

A. No whiskey. I wasn't trying to purchase whiskey.

Q. Mr. Wright, aren't you what is commonly known as a stool pigeon?

A. That is not correct.

Q. That you graduated from a loan shark to a stool pigeon? A. That is not right. [334]

Mr. Stevens: Your Honor, I believe the Code of Alaska protects a witness against intimidation and such remarks as Mr. Taylor is making here today.

(Testimony of C. M. Wright.)

The Court: Make your objections promptly.

Q. (By Mr. Taylor): How old are you?

A. Twenty-nine years old.

Q. I believe you stated the 18th of June was the last time that you saw Mr. Bennett?

A. That's right.

Q. And who was he with at that time?

A. He was with Carolyn Wright and Norma, whatever her name is, and Betty Bennett, his wife.

Q. Do you know Marilyn Casey?

A. Not by that name I don't.

Q. You don't know anybody by that name?

A. Not by Marilyn Casey, no.

Q. Did you see Wesley Kehert, also known as Steve Williams, on the 18th day of June, 1953?

A. Yes, sir.

Q. Where? A. In Odessa, Texas.

Q. Whereabouts in Odessa?

A. At Jack Bennett's apartment.

Q. Who was he with?

A. He drove up by himself. [335]

Q. On the 18th day of June, 1953?

A. No, May. You asked me on the 18th day of May.

Q. Now, wait a minute. You said that the last time you saw Jack Bennett was on the 18th day of June, 1953? A. That's right.

Q. Did you see Mr. Kehert at that time?

A. I did not.

Q. When was the last time that you had seen Mr. Kehert?

(Testimony of C. M. Wright.)

A. I believe it was on the 18th day of May.

Q. Well, wasn't the 18th day of May the day that you drove to Big Springs?

A. That's right.

Q. Did you see Mr. Kehert at that time?

A. Oh, I saw him when I got back to Odessa from Big Springs.

Q. Now, when they left Odessa, how—which direction did they take out of——

A. I don't know. The Rangers was after them. They probably left in any direction.

Q. And how far was it to the border?

A. Oh, two or three hundred miles to the border of Mexico.

Q. And how far to the border toward New Mexico? A. Toward New Mexico?

A. Yeah, toward New Mexico. You know, there is a state down there, New Mexico; how far is it to it? [336] A. From where?

Q. Where was they leaving from? Odessa?

A. Odessa, that's right.

Q. How far? A. To where?

Q. To New Mexico border?

A. I think about seventy-five or eighty miles, somewhere along there, to the New Mexico border.

Q. And you mean to say that the famous Texas Rangers couldn't catch these cars in that length of time?

Mr. Stevens: Just a moment. I am going to object to that, to Mr. Taylor using these phrases, your

(Testimony of C. M. Wright.)

Honor. If he wants to conduct a proper examination the government has no objection, but he is making these insinuations in his remarks and also testifying. Again I object to his testifying in his cross-examination. They are not hypothetical. They are not based on any facts before this court.

Mr. Taylor: If I have testified I certainly have not intended to, your Honor.

The Court: Proceed.

Q. (By Mr. Taylor): So you don't know what direction they took out of Odessa then?

A. No, I wasn't there at the time.

Q. You wasn't there when they left?

A. That's right. [337]

Q. So you don't know whether they left for Alaska or not?

A. No, they left for Houston, the information that we gathered.

Q. Do you know whether they got to Houston or not? A. No, I don't know.

Q. You didn't gather that information then?

A. No, I didn't. I know that they left for Houston and we lost track of them until they was picked up here.

Q. The Texas Rangers was unable to get them; is that right?

A. They arrested the girls that night.

Q. Up here? A. No, in Odessa, Texas.

Q. Let them loose?

A. After they fined them.

Q. Did they arrest them at Odessa?

(Testimony of C. M. Wright.)

A. Yes, sir.

Q. So you didn't know then when they did proceed for Alaska then, Mr. Wright?

A. No, sir, I didn't.

Q. Are you still stooling for the Narcotics Bureau?

Mr. Stevens: I object to that, your Honor.

Mr. Taylor: I will withdraw it.

Q. (By Mr. Taylor): Are you still undercover man for the Narcotics Bureau? [338]

A. No, sir, I'm not.

Q. You lost that job?

A. I did not lose it. I resigned.

Q. What are you doing at the present time?

A. I am with Texas Bankers in cooperative.

Q. Detective?

A. No, sir. I run the loan department.

Q. Now, I'm just going—want to get this, be sure of this. Your testimony is that you saw Wesley Kehert in Odessa on the 18th day of May, 1953?

A. I saw Steve Williams, that was what he was known to me.

Q. You didn't see Wesley Kehert then?

A. Yes, sir, if that is his real name, I did.

Q. That man sitting at the end of the counter?

A. That's right. I sure did.

Q. And the rest of your statements are just as true as that one is; is that right?

A. Yes, sir, I said that awhile ago.

Mr. Taylor: That's all.

(Testimony of C. M. Wright.)

Redirect Examination

By Mr. Stevens:

Q. Mr. Wright, in regard to the conversation you described formerly about the trip to Anchorage, Alaska, the discussion you had with Mr. Bennett, did he tell you what purpose he would have in bringing the girls to Anchorage, Alaska?

A. Yes, sir. [339]

Q. What was that?

A. Well, he told me how much money he could make from his girls prostituting in Anchorage.

Q. And for whom did you work after you left the Bureau of Narcotics, Mr. Wright?

A. Odessa Police Department.

Q. And how long have you been with the Bankers Corporation?

A. I resigned, I started to work with Bankers the first day of January.

Q. Of this year?

A. Yes, sir.

Mr. Stevens: That's all for right now. Your witness, Mr. Taylor.

Recross-Examination

By Mr. Taylor:

Q. Mr. Wright, I suppose if you had bought any narcotics from Mr. Bennett you would have arrested him, would you?

A. Not at that time, no, sir.

Q. So you never had him arrested though, did

(Testimony of C. M. Wright.)

you? A. No, sir, I did not.

Mr. Taylor: That's all.

The Court: Is that all, Mr. District Attorney?

Mr. Stevens: Just one minute, please. [340]

Redirect Examination

By Mr. Stevens:

Q. Mr. Wright, do you have any knowledge of what occurred at Mr. Bennett's apartment on the 19th day of June, 1953, in the evening?

A. I would have to think a minute, I believe, on the 19th of May?

Q. This is June? A. Of June?

Q. Yes, the 19th of June, 1953. Mr. Wright, were you working in connection with the Sheriff's Department there at all in Odessa, Texas?

A. No, sir, I was not. I was just trying to stay out of their way.

Q. You said that in answer to a question of Mr. Taylor that the girls had been arrested on that night? A. Yes, sir.

Q. Do you remember what that arrest was for?

Mr. Taylor: Now, just a moment, your Honor. I am going to object to the question upon the grounds that this would be merely hearsay as to something he had heard. I believe the records of an arrest would be the best evidence, your Honor.

Mr. Stevens: Very well, your Honor. We will withdraw the question. Your witness, Mr. [341] Taylor.

(Testimony of C. M. Wright.)

Recross-Examination

By Mr. Taylor:

Q. Mr. Wright, I understand from your answer to a question by Mr. Stevens that you were dodging the Sheriff on the 18th day of June, 1953?

A. That's right. Jack Bennett was paying them off to let his girls operate.

Q. And you was dodging the Sheriff?

A. Yes, sir.

Q. To keep from being arrested?

A. No, sir, I was not. I didn't want the Sheriff to see me with Jack Bennett because I was afraid they might tell him who I was.

Q. Well, isn't it a fact that Mr. Bennett knew all the time that you were an undercover man or a stool pigeon for the Narcotics Bureau?

A. I found out later that a Deputy Sheriff called and told him.

Q. So he knew all the time that you——

A. Not at that time, no.

Q. So then knowing what you were, you still state that he made these admissions to you up until the day he left Odessa then?

A. Yes, sir, that was the day that he was called and was told who I was.

Q. Well, isn't it a fact that you was told two months [342] before that you were a stool pigeon for the Narcotics Bureau?

A. No, sir, I was not no stool pigeon for the Narcotics Bureau.

(Testimony of C. M. Wright.)

Q. April the 5th?

A. No, sir. Jack Bennett accused me of being an agent, and——

Q. On April 5th?

A. I don't know the date. I know he accused me of it several times.

Q. And still at that, knowing you to be an agent and accusing you of being an agent you say that he still told you about his activities?

A. He didn't know that I was an agent.

Q. He told you you were an agent?

A. Yeah, he told me I was, but he wouldn't have took me into the people that he did if he had known I was.

Q. The Deputy Sheriff had told him that you were? A. He didn't at that time, no, sir.

Q. Have you ever been convicted of a crime, Mr. Wright? A. No, sir, I have not.

Q. Ever been in jail?

A. No, sir, I have not.

Q. You successfully dodged the Sheriff then; is that right? A. I sure did for awhile.

Mr. Taylor: That's all. [343]

Redirect Examination

By Mr. Stevens:

Q. Mr. Wright, when was it that the Deputy Sheriff notified Mr. Bennett who you were?

A. It was in June, the day that he left Odessa.

Mr. Taylor: Just a moment. I believe the proper foundation hasn't been laid for that, your Honor.

(Testimony of C. M. Wright.)

The Court: Objection overruled.

Q. (By Mr. Stevens): Proceed, Mr. Wright.

A. It was the night of June the 18th, I believe, when he was notified that I was an Agent and that also that the Rangers was fixing to raid his place.

Q. And when was it that Mr. Bennett had accused you of being an agent for the Bureau of Narcotics?

A. Oh, it wasn't an accusation in one sense of the word, and one sense it was. I mean, he told me several times, he said, "I think you are an agent." He said, "I don't know for sure, but" he said, "I know that there is some agents working down here." He said there is seven or eight of them. Of course, there wasn't. There was only two of us.

Q. And just what brought about these trips that you took with Mr. Bennett?

A. To purchase narcotics.

Q. And were they successful?

A. No, sir. [344]

Q. And what terminated your acquaintance with Mr. Bennett?

A. At the time that he left Odessa.

The Clerk: Government's Identification No. 49.

(A photograph of four people was marked "Government's Identification 49.")

Q. (By Mr. Stevens): This is Government's Identification 49, Mr. Wright; will you tell us what that is, please?

A. It is a picture.

(Testimony of C. M. Wright.)

Mr. Taylor: Just briefly state, not describe.

Mr. Stevens: Let Mr. Taylor address his objections to the court. My question is, will you tell us what this is, please.

A. Yes, sir. It is a picture of myself, Carolyn Wright, Agent Herman Pizinni and Jack Bennett.

Q. And where was that picture taken?

A. In the Mink Club at Amarillo, Texas.

Q. Is this one of those pictures that a photographer comes around in a night club, takes a picture and gives you a copy of it? A. Yes, sir.

Mr. Stevens: Your witness, Mr. Taylor. [345]

Recross-Examination

By Mr. Taylor:

Q. At the time you and the other agent and Mr. Bennett was in the Mink Club, were you drinking?

A. Yes, we was.

Mr. Taylor: That's all.

Mr. Stevens: We offer Government's Identification No. 49 in evidence, your Honor.

Mr. Taylor: We object, your Honor, upon the grounds it is irrelevant, immaterial, incompetent and doesn't go to prove any of the issues of the Indictment, your Honor, in any way whatsoever.

The Court: Objection overruled. It may be admitted.

The Clerk: Government's Exhibit "Q."

(Government's Identification No. 49 was re-

(Testimony of C. M. Wright.)

ceived in evidence as Government's Exhibit
"Q.")

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: I am through with him.

(Witness excused.)

Mr. Stevens: Call Miss Rogers.

BARBARA ROGERS

a witness called on behalf of the plaintiff, was duly sworn, and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Barbara Rogers. [346]

Q. Where do you live?

A. Seward, Alaska.

Q. And would you tell the court, please, what your occupation was in July of 1953?

A. What it was?

Q. That's right.

A. I was running a rooming house in Seward, Alaska.

Q. And was this house on the line in Seward?

A. Yes, it was.

Q. The line was open at that time?

A. Yes.

Q. And did you have any girls working in your house?

A. I had two.

Q. They were?

(Testimony of Barbara Rogers.)

A. Christy Parker and Judith Lebuff.

Q. And you were running the house as a bawdy house openly in Seward?

A. We all were, yes.

Q. At that time the line was open, was it not?

A. Yes, the City allowed us to be there.

Q. Could you tell us whether or not at approximately that time you saw the defendant James Bennett in Seward, Alaska?

A. I didn't know them by name.

Q. Well, did you see the gentleman who is sitting at the table on your right, Mr. Bennett? [347]

A. I'm not sure I seen them. I told Mr. Clark of the FBI when he showed me pictures that both men looked alike to me, and I couldn't tell them apart.

Q. But did you tell the FBI that you had seen them in Seward?

Mr. Taylor: Just a moment, your Honor. We are going to object to any conversation with the FBI not made in the presence of these defendants.

The Court: What is your procedure then?

Mr. Taylor: Move to strike it.

The Court: It may be stricken.

Q. (By Mr. Stevens): Miss Rogers, did you see either of these gentlemen or both of them in Seward?

A. Well, I didn't know who these gentlemen were until a girl that had worked for me told me the names of the men. I did not know them myself.

Q. But without knowing their names, did you see them in Seward? A. I seen two men.

(Testimony of Barbara Rogers.)

Q. And are these the two men?

A. I can't say that they are or aren't.

Q. Well, now, as a matter of refreshing your recollection, you were shown pictures of the gentlemen by the FBI in Seward?

A. That's right. [348]

Q. And at that time your memory was a little fresher than it is now?

A. My memory was no fresher than it is now. I told the FBI that both of them looked like one man in the pictures and I told them that at the grand jury in Anchorage, when I was called there on the same case.

Q. Well, did you see a gentleman which looked like either of these gentlemen in Seward?

A. My goodness, I see several hundred men a day when we are open.

Q. Was it not a fact that you subsequently identified the man that you saw as one of the gentlemen here in court?

A. I did not identify them. They were brought to me for identification.

Q. Did you not later ascertain that they were?

A. Only through the girl's say-so that had been working for me.

Q. Miss Rogers, did you talk to Mr. Taylor this noon?

A. I met him on the street and know him for quite some time and just said hello on the corner.

Q. Did you discuss the facts of this case at all?

A. No, not at all.

(Testimony of Barbara Rogers.)

Q. Have you been sitting outside in the hall discussing the facts of this case with Marilyn Jean Casey? A. No, I don't know that girl.

Q. Wasn't it a fact you told me yesterday you were introduced to them in Anchorage? [349]

A. I was at a night club drinking when somebody said, meet Mr. Bennett and Mr. Kehert, and I said, "How do you do."

Q. And did you not at that time recognize them as the gentlemen you had seen in Seward?

A. No, I did not until I was told that they were the ones that were in Seward by the names.

Q. When was this that you had seen a gentleman that you described to the FBI in Seward?

A. Oh, in Seward. Well, at the time that there was supposed to have been two men come to the house and ask if I could use any girls.

Q. And when was that?

A. I don't remember the exact date. I imagine you have it there.

Mr. Taylor: Just a moment, I would like to get that answer to that last question.

(The reporter read the answer to the last question as follows: "I don't remember the exact date. I imagine you have it there.")

Mr. Taylor: I am going to object to any further questions along this line until the date is established as to when this took place.

The Court: Well, make your objections to the question.

(Testimony of Barbara Rogers.)

Q. (By Mr. Stevens): Do you know Fern [350] Bennett? A. No, I do not.

Q. Did you know Fern Bennett as a girl named Pat in Seward?

A. I didn't know any of the girls except the ones working for me.

Mr. Stevens: Your Witness, Mr. Taylor.

Mr. Taylor: No questions.

Mr. Stevens: That's all, Mrs. Rogers.

(Witness excused.)

Mr. Stevens: May we have the recess at this time, your Honor?

The Court: Did you want to put on some more? I will take the usual adjournment for the evening unless you have something more.

Mr. Stevens: That is what I mean, the usual adjournment, and, your Honor, if it is permissible with you, could we notify the jury not to come in tomorrow, but to come in Friday morning, the regular panel, the rest of the panel. They were told on Monday to return Thursday.

The Court: Mr. Clerk, would you notify them?

The Clerk: Mr. Taylor says he doubts very much, your Honor, if we will finish it tomorrow.

Mr. Taylor: There is a possibility, your Honor, but——

The Court: If that is the case we had better notify those jurors not to appear until [351] Monday.

The Clerk: Monday. Very well, your Honor.

Mr. Taylor: Your Honor, I would hate to take my opinion on this thing, and if we did get finished tomorrow I don't like to take the blame for it. I am not absolutely sure.

The Court: We will have to take your guess on it, I guess.

Mr. Stevens: It is agreeable with us. We have three more witnesses, your Honor. The government has three witnesses.

The Court: Well, we will notify them to come in Monday at ten o'clock then.

In a moment we will take an adjournment until tomorrow morning at ten o'clock, ladies and gentlemen of the jury. In the meantime, remember to be very careful about hearing anything about this case from people who are not on the stand testifying under oath. Remember not to listen to anyone talk about the case or about the parties in it. Keep your minds free from an opinion as to the guilt or innocence of these defendants and adhere to that, those instructions until this case is finally submitted to you.

Adjourn until tomorrow at ten.

The Clerk: Court is adjourned until tomorrow morning at ten o'clock.

(Thereupon, at 5 o'clock p.m., the trial of this cause was adjourned until May 13, 1954, at 10 a.m.) [352]

Be It Remembered, that upon the 13th day of May 1954, at the hour of 10 o'clock a.m., the trial

of this cause was resumed, the plaintiff and the defendants both represented by counsel, the Honorable Harry E. Pratt, District Judge, presiding.

The Court: Call the roll of the jury.

(Whereupon the Clerk of Court proceeded to call the roll of the jury.)

The Clerk: They are all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case, United States v. Bennett, et al.?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor. Call Mr. McCown.

N. D. McCOWN

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. My name is N. D. McCown.

The Clerk: Government's Identification No. 50.

(A photograph of Marilyn Jean Casey was marked Government's Identification No. 50.)

Q. (By Mr. Stevens): Where do you reside, Mr. McCown?

A. My home is 717 A in Galveston, Texas. [353]

Q. And what is your business in Galveston, Texas? A. Police Detective.

Q. And were you a police detective in June of 1953, in Galveston, Texas? A. I was, sir.

(Testimony of N. D. McCown.)

Q. Mr. McCown, I hand you Government's Identification 50; would you tell us, if you know this individual whom we know as Marilyn Jean Casey?

A. Yes, sir, I know the lady, but not by that name.

Q. By what name did you know her?

A. I knew her by the name of Sheridan. She was working under the name of June.

Q. And was that in Galveston, Texas?

A. Yes, sir, it was.

Q. Where is the line in Galveston, Texas?

A. You refer to the line as the red light district, is that what you are referring to, sir?

Q. That's correct, the houses of prostitution.

A. Up until about August it was from 25th to 28th on Post Office Street.

Q. That is in Galveston, Texas?

A. Yes, sir.

Q. Did you know a Candy who was a prostitute in Galveston? A. Yes, sir.

Q. And was that in a—did you know her in approximately June of 1953? [354]

A. She was there, yes, sir, at that time.

Q. And did you know a Rita who was a prostitute in Galveston approximately the same time?

A. Yes, sir, I do.

Q. And where did Rita reside in June of 1953?

Mr. Taylor: Just a moment, Mr. McCown. I am going to object to the line of questioning as incompetent, irrelevant, and immaterial, concerns people

(Testimony of N. D. McCown.)

that we know nothing about here; don't see what they go to prove, your Honor.

Mr. Stevens: Your Honor, Mr. Taylor has gone to some length to impeach to a certain extent the government's witness and the statements she made at a prior time. This witness is testifying as to incidents and people covered in that statement and has identified them as people who are in Galveston so far.

The Court: Well, the last person you mentioned was not a defendant, was she?

Mr. Stevens: No, I merely asked Mr. McCown if he knew a Rita in Galveston, Texas.

The Court: She is not a defendant in this case?

Mr. Stevens: No, she is not a defendant in this case and there is no conversation of Rita. It is just did he know personally a Rita as a prostitute in Galveston.

The Court: Well, I will sustain the objection.

Mr. Stevens: May we make an offer of proof, your Honor? [355]

The Court: Yes.

(Thereupon, the attorneys approached the bench, and the following proceedings were had out of the hearing of the jury.)

Mr. Stevens: Your Honor, Government's Exhibit "O," Miss Casey's statement, says that she knew a Candy Gordon at Club 16 where she was a barmaid in Galveston, Texas. It also says that she met a Rita in Galveston, Texas, and that through

(Testimony of N. D. McCown.)

Rita and Candy she met the defendants, Wesley Kehert, also know as Williams, and Jack Bennett. She also said that she knew a Jim Senseney in Galveston, and Mr. Taylor has elicited from Miss Casey the fact that these are all lies and we wish to rehabilitate our witness to a certain extent by showing that they were true. You asked Miss Casey and she said it was not true.

Mr. Taylor: Not that particular part.

Mr. Stevens: The statement in itself.

The Court: The offer is denied.

(The attorneys withdrew from the bench and the following proceedings were had in the hearing of the jury.)

Q. (By Mr. Stevens): Well, did you know Miss Casey in Galveston, Texas?

A. This girl you refer to?

Q. Yes. A. Yes, I did.

Q. And did you see her in June of 1953? [356]

A. I did, sir.

Q. And where did you see her at that time?

A. At 2710 Post Office Street.

Q. And what was the purpose of your visit, Mr. McCown?

A. We had a call, if I may look at my memorandum here for exact time. We had a call from a radio——

Mr. Taylor: I think we are going to object to this, your Honor, the line of questioning as to what happened in Galveston prior to coming to Alaska,

(Testimony of N. D. McCown.)

or prior to any of the happenings of the allegations contained in the Indictment as it would have no bearing upon this case, nor would it be competent, relevant or material. This man producing some document from Galveston, Texas, we have no opportunity of refuting it, your Honor.

The Court: You are familiar with what this man's testimony is going to be now, are you?

Mr. Stevens: Yes, your Honor. I would be glad to again make an offer of proof as to what his testimony will be.

The Court: If you will.

Mr. Stevens: Yes, sir.

(Whereupon, the attorneys approached the bench, and the following proceedings were had out of the hearing of the jury.)

Mr. Stevens: His testimony will be, your Honor, that on the 14th day of June, which is just shortly before [357] this trip started, if your Honor remembers it started from Odessa, Texas, on the 20th of June. This is on the 14th day of June, he saw Miss Casey and he saw her and had a conversation with her in a house of prostitution as a result of a phone call from her parents and he personally—he has a record of the fact that he received a phone call and was asked to locate this girl and he did locate her and she was in Galveston on the 14th day of June, 1953, and at that time she admitted that she was a prostitute.

(Testimony of N. D. McCown.)

The Court: That was the line, was it. He found her on the line?

Mr. Stevens: Yes, sir, and we make this offer, under the same law that we cited to the court yesterday, that the activities of the party and the people involved in this case for a reasonable time before and after this. We show the same thing, your Honor, as far as Miss Casey's activities here in Fairbanks.

Mr. Taylor: I think that was a little remote. That was prior to any meeting between these defendants and Miss Casey. It looks to me like it is going a little far afield.

The Court: I think that you are entitled to show that and also to show if he has any memoranda, whether made by himself or anybody else, which he used at the time to locate her. Well, I think you probably better eliminate that data any way, unless it was made by him at the time.

Mr. Stevens: Yes. [358]

The Court: It is not important otherwise.

(The attorneys withdrew from the bench, and the following proceedings were had in the hearing of the jury.)

Q. (By Mr. Stevens): Mr. McCown, this memorandum that you requested permission to refer to, is that a memorandum that you made at the time of your conversation with Miss Casey?

A. Yes.

Q. And was that made as the normal course of your duties? A. Yes, sir.

(Testimony of N. D. McCown.)

Q. And you made the records yourself?

A. Yes, sir, I did.

The Clerk: Government's Identification No. 51.

(Memorandum made by the witness, McCown, was marked Government's Identification No. 51.)

Q. (By Mr. Stevens): I hand you Government's Identification 51, Mr. McCown; is this the original of the memorandum to which you referred previously?

A. Yes, sir, it is.

Q. And now, Mr. McCown, will you tell us, did you see Miss Casey on June the 14th, 1953?

Mr. Taylor: Just a moment, your Honor. We are going to object. That memorandum to which he refreshed his [359] memory has no mention, your Honor, of Marilyn Jean Casey. Entirely different person, and he says he don't know Marilyn Jean Casey, your Honor, so we are going to object until——

The Court: He testified he knew her by another name.

Mr. Taylor: He said he never heard the name, your Honor.

The Court: I can't hear you.

Mr. Taylor: He testified he never heard the name of Marilyn Jean Casey down there.

The Court: Objection overruled.

Q. (By Mr. Stevens): What was the purpose of your visit on June 14, 1953?

A. We received a call by radio police radio at

(Testimony of N. D. McCown.)

8:05 p.m., June 14, 1953, received a call by radio to see a complainant.

Mr. Taylor: Just a moment, Mr. McCown. We are going to object to any conversations, your Honor. It would only be hearsay.

Mr. Stevens: Yes, Mr. McCown, if you will just tell us what was your purpose of going to see her.

A. We went to see a complaint at 412 Eleventh Street in Galveston. When we got there the parents of this girl were there from Oklahoma and they asked us if we would try to contact the girl, that she was supposed to be working there [360] and they wanted to get in contact with her. She didn't tell us why. She gave us the name of Marie Sheridan. We checked one place, the Club 16 on Sixteenth and Avenue B, in Galveston, and she had previously worked there, but she had gone. We received information there that she had moved and gone to work at 2710 Post Office Street. We then went to 2710 Post Office Street and this girl was there. We talked to her at the place and asked her if she would get some clothes on and come with us, that her mother wanted to talk to her. She did so, and we took her back to 412 Eleventh Street. Her mother had already found out in the meantime from another girl, a prostitute there named Storey—

Mr. Taylor: Just a moment. We are going to object to what the mother said as something she heard.

The Court: Objection sustained .

Q. (By Mr. Stevens): Go ahead.

(Testimony of N. D. McCown.)

A. When we took her back her mother started crying and begging her to go back home with her. Her mother had married——

Mr. Taylor: Your Honor, the marriage certificate would be the best evidence.

Q. (By Mr. Stevens): Yes, I'm afraid you will have to skip that part.

A. Well, let's say that the girl said that, in my presence that the mother had married this man that was with her. [361]

Mr. Taylor: We are objecting to what the girl said, your Honor.

Mr. Stevens: Miss Casey is not a defendant here, Mr. McCown.

Q. (By Mr. Stevens): Did you see Marilyn Casey at this place, where was it you said, on Post Office Street? A. 2710 Post Office Street.

Q. And is that house known to you as a dectective of the Police Department of the City of Galveston as a house of prostitution? A. Yes, sir.

Q. And did you have any conversation with Miss Casey herself concerning prostitution?

A. Yes, of course.

Q. And when was that?

A. That same day, sir.

Q. And who was with you at that time?

A. My partner, Tony Cifu.

Q. How do you spell that?

A. C-i-f-u.

Q. And at that time, well, what time was it, please?

(Testimony of N. D. McCown.)

A. It was between 8:05 and 9 p.m., June 14th, 1953.

Q. And what was the conversation about prostitution, please?

A. She told us there that her mother was (Interrupted)—— [362]

Mr. Taylor: Just a moment, your Honor. We are going to object as to hearsay testimony.

The Court: Objection overruled.

A. For one thing, she propositioned me, asked me if I wanted it, for one thing.

Q. At that time, was the line running open in Galveston? A. Yes, it was.

Q. And did you, as a detective of the police down there, know prostitutes in that area?

A. Yes, sir.

Q. And they were all working openly, were they?

A. Yes, sir.

Q. Did you know any of the other girls who were working in the same house? A. Yes, sir.

Q. Who were some of them, for instance?

Mr. Taylor: We object, your Honor. Incompetent, irrelevant and immaterial.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Mr. McCown? A. McCown.

Q. May I take a look at that?

A. You want the picture? [363]

(Testimony of N. D. McCown.)

Q. I want your memorandum, too.

A. I see.

Q. Mr. McCown, when was the word "Marilyn Jean Casey" put on the back of this picture?

A. I don't know, sir.

Q. What? A. I don't know, sir.

Q. Did you bring that picture with you from Galveston? A. No, sir, I did not.

Q. Where did you get it?

A. The prosecutor just handed it to me.

Q. And you recognized her as the girl that you had seen in Galveston, Texas? A. I do, sir.

Q. And now you testified from a memorandum here as to some girl named Marie Sheridan, is that not right?

A. That is the name she used there, sir.

Q. And did you ever know of her using the name of Marilyn Jean Casey in Galveston?

A. I did not.

Q. So somebody told you that she used that name, is that right?

A. I don't know. Nobody told me she used that name.

Q. Well, how is it you glibly refer to her as Marilyn Jean Casey? How do you know that she is Marilyn Jean Casey? Did you read this name on the back of this? [364]

A. I don't know, sir. These women change their names every week or so.

Q. Well, what was her name last week?

(Testimony of N. D. McCown.)

A. While she was in Galveston her name was Marie Sheridan.

Q. Yeah, what week was that?

A. June the 14th.

Q. Well, what was it on June 21st?

A. I really don't know.

Q. What was it June the 7th?

A. I really don't know, sir.

Q. So they don't change their name every week then, do they?

A. It has been known to happen.

Q. Now, I take it then, Mr. McCown, that prostitution is a legitimate business in Galveston, Texas; is that right?

A. No, sir, it isn't.

Q. It is not?

A. No, sir.

Q. Police officers go into these houses that you say are prostitution?

A. They are closed.

Q. Did you close them?

A. We closed them.

Q. How long they been open?

A. Longer than I have been alive, I imagine, sir. [365]

Q. Quite a historic institution, weren't they?

A. I understand they were. I only lived in Galveston some ten years.

Q. So then you don't know whether this is Marilyn Casey or not, do you, this Marie Sheridan?

A. I don't know what her name is. She used Sheridan in Galveston.

(Testimony of N. D. McCown.)

Q. Were you subpoenaed to come up here and tell this jury that story?

A. I was subpoenaed to come up here and tell this jury what I know about this girl.

Q. About Marie Sheridan? A. Yes, sir.

Q. When did you close the line in Galveston?

A. I believe it was in August, sir.

Q. Of what year? A. '53.

Mr. Taylor: That's all.

Redirect Examination

By Mr. Stevens:

Q. Mr. McCown, would you tell the court and the jury whether or not Marilyn Jean Casey and this Marie Sheridan are one and the same person?

Mr. Taylor: Just a moment, your Honor. I am going to object to the question because it calls for a conclusion of this witness. He said he don't know anybody by the name of [366] Marilyn Casey, or has never known anybody by the name of Marilyn Jean Casey.

Mr. Stevens: Your Honor, I have shown to the witness and I stated her name what is known to us as Marilyn Jean Casey. Now, I am asking this witness if the person shown in this picture as Marilyn Jean Casey is one and the same person known to Mr. McCown as Marie Sheridan.

The Court: All right. Answer that question.

Mr. McCown: They are, sir.

(Testimony of N. D. McCown.)

Q. (By Mr. Stevens): And at that time, Mr. McCown, what was the color of her hair?

A. She was a blonde at that time.

Mr. Stevens: We offer Government's Identification 50 in evidence, your Honor.

Mr. Taylor: We are going to object to it upon the grounds it is a self-serving declaration of the prosecution. No testimony that this is Marilyn Jean Casey, your Honor; no showing where the picture was taken, and for the further reason that the photograph is highly prejudicial. It don't show any conviction of a crime whereas the testimony, your Honor, shows that she was arrested and after signing an affidavit for the FBI was released, and there was no prosecution on it, your Honor. Such a picture as that would be highly prejudicial especially in view of the position it is [367] taken, and I understand that it is the rule of the jail when those pictures are taken and there is no conviction they are supposed to be destroyed and returned. We feel it is highly improper, your Honor, at this time, and we are objecting strenuously to the introduction of that statement.

Mr. Stevens: Mr. Taylor's statement shows that it is obvious he knows where it was taken, your Honor. I will be glad to bring the jailer up. We offer Government's Identification 51 in evidence.

Mr. Taylor: We are going to object to that, too, your Honor. We feel it is self-serving, no reference to any of the defendants. Self-serving, made by this

(Testimony of N. D. McCown.)

man, no date on it, no statement as to when it was made or under what conditions.

The Court: Objections sustained.

Mr. Stevens: Very well, your Honor. Your witness, Mr. Taylor.

Mr. Taylor: No further questions.

The Court: Are you through with this witness?

Mr. Stevens: Yes, your Honor, at this time.

(Witness excused.)

Mr. Stevens: May we have just one moment, your Honor, please?

Your Honor, may we ask for a short delay or recess until we find out who took this picture of Miss Casey downstairs. [368]

The Court: How long do you want?

Mr. Stevens: It will take just about five minutes, your Honor, and then, your Honor, I might notify the court that the last government witness did not arrive and will not be in until 11:30 this morning, and for that reason we would like to ask the court for a continuance until two o'clock as soon as we put on this next witness.

The Court: Will five minutes be enough?

The Clerk: Court is recessed for five minutes.

(Thereupon, at 10:30 a.m., the court took a recess until 10:40 a.m., at which time it reconvened, and the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

The Court: Very well.

Mr. Stevens: Call Mr. Prosser, please.

HAROLD L. PROSSER

a witness called on behalf of the plaintiff, was duly sworn, and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Harold L. Prosser.

Q. And where do you reside, Mr. Prosser? [369]

A. Fairbanks.

Q. And what are your official duties?

A. Jail Supervisor for the Federal jail.

Q. Here in Fairbanks, Alaska?

A. Correct.

Q. This is Government's Identification 50, Mr. Prosser; will you tell us, did you take that picture?

A. No, I did not.

Q. Do you have a picture of Marilyn Jean Casey which is part of the official record of your jail?

A. I do.

Q. And can you testify that the picture you have was kept as part of your official duties as the supervisor of the Federal jail in Fairbanks?

A. Correct.

Q. Do you have that picture with you now?

A. I do.

(Testimony of Harold L. Prosser.)

Q. May I have it, please?

The Clerk: Government's Identification No. 52.

(A photograph of Marilyn Jean Casey was marked Government's Identification 52.)

Q. (By Mr. Stevens): I hand you Government's Identification 52; will identify that for us, please?

A. The pictures are identical. [370]

Q. And is that a, is Government's Identification 52 an official document of your records pertaining to Miss Casey while in your custody?

A. Correct.

Q. And is it your normal procedure to take pictures such as the picture you have in your hand, Government's Identification 52? A. Yes, sir.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Mr. Prosser, did you take that picture?

A. No, sir.

Q. Well, when was it taken?

A. I would have to check the records. I don't know for sure.

Q. You don't know when it was taken?

A. Pictures are usually taken the morning of the arraignment, following arraignment.

Q. Following arraignment. Now, what is your procedure in the event, if a person is arrested and

(Testimony of Harold L. Prosser.)

are later released and not prosecuted. What do you do with those pictures?

A. Nothing. They are in the dead file.

Q. Is that in the dead file now?

A. It is.

Q. There was no prosecution had under that arrest then, is that right? [371]

Mr. Stevens: I object to that, your Honor.

Q. (By Mr. Taylor): Do you know whether there was?

A. I am not aware whether there was or was not.

Q. When did you take over the duties as supervisor of the Federal jail?

A. July the first.

Q. Last year? A. '53.

Q. So you don't know when this picture was taken?

A. I could check her record and tell.

Q. Could you tell exactly when that picture was taken just by checking the records. Do you have any notation on your records that show the hour when the picture was taken?

A. Not the hour, no, sir. I have a record showing the hour that she was booked in the jail, and the hour of the arraignment and the picture follows the arraignment.

Q. That is your supposition, is it not?

A. No, they do follow the arraignment.

Q. Do you know whether this one followed the arraignment?

(Testimony of Harold L. Prosser.)

A. They follow the arraignment.

Q. Were you present at the time?

A. I cannot be present twenty-four hours a day.

Q. It would only be a conclusion, wouldn't it?

You wasn't even in the country at the time that picture was taken? [372]

A. I most certainly was.

Q. Was you in Fairbanks? A. I was.

Q. What time was that picture taken?

A. The day following the arraignment.

Q. You say you took over this job in August?

A. July the first, 1953.

Q. What day of July? A. The first.

Q. July the 1st, 1953, so you would have to check your records, would you get your record and see what day that picture was taken?

A. Was arraigned on 7th at ten o'clock on the 7th.

Q. Your record shows that?

A. It shows the arraignment on the 7th.

Q. When was Miss Casey released from your custody, Mr. Prosser?

Mr. Stevens: I object, your Honor. That is not within the scope of the direct examination.

Mr. Taylor: I believe I can go into the matter of detention, your Honor. It would seem to me——

Mr. Stevens: He can, but he is going beyond the scope of direct examination, if your Honor will permit it.

The Court: Objection will be sustained.

Q. (By Mr. Taylor): Mr. Prosser, you know

(Testimony of Harold L. Prosser.)

that Miss Casey was never [373] prosecuted under any charge that she was brought on at that time?

A. I am not aware of whether she was or was not.

Q. You said awhile ago that she wasn't?

A. I said the same thing I said a moment ago. I am not aware of whether she was or was not.

Mr. Taylor: That's all.

Mr. Stevens: Your Honor, we offer the picture which is Government's Identification 52 in evidence pursuant to Title 28, United States Code, Section 1733, a government record, part of the official records of the jail.

Mr. Taylor: It is in the dead file, your Honor. I don't think it is a government record at the present time. I am going to object on the further grounds that it is highly prejudicial and it is only introduced here for the purpose here of prejudicing Miss Casey before this jury, and that placard she is holding there, your Honor, if it was off I would have no objection to that picture.

Mr. Stevens: Miss Casey is not on trial in this court, your Honor.

The Court: Objection overruled.

The Clerk: Government's Exhibit "R."

(Government's Identification No. 52 was received in evidence as Government's Exhibit "R.")

(Witness excused.) [374]

Mr. Stevens: I would like to call Miss Casey for just one or two questions, please.

MARILYN JEAN CASEY

a witness recalled on behalf of the plaintiff, having been previously sworn, resumed the stand and testified further as follows:

Direct Examination

By Mr. Stevens:

Q. Miss Casey, this is Government's Exhibit "R"; is that your picture? A. It is.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Miss Casey, since you were on the stand day before yesterday, have you received any further threats from any officers of the law?

A. Yes, sir, I have.

Q. And where was, when was those threats made?

A. Well, Mr. Stevens walked in the courtroom to a friend of mine (interrupted)——

Mr. Stevens: Just a moment, your Honor. I am going to object to any hearsay testimony concerning threats of mine.

Miss Casey: Three people heard it.

Q. (By Mr. Taylor): Well, what did you hear, Miss Casey? [375]

A. Mr. Stevens came down the hall and told me he was going to do his best to get me ten years.

(Testimony of Marilyn Jean Casey.)

Mr. Stevens: I will, too, Miss Casey.

Miss Casey: Thank you.

Mr. Taylor: I would like the record to show that Mr. Stevens said in open court that he was going to get Miss Casey ten years.

Mr. Stevens: Any further questions, Mr. Taylor?

Mr. Taylor: That's all right now.

(Witness excused.)

Mr. Stevens: Call Bea Whispell.

BEULAH WHISPELL

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Yeager:

Q. Will you speak up loud so the people can hear you, Miss Whispell? A. I will try.

Q. Would you state your name, please?

A. Beulah Whispell.

Q. Where do you reside?

A. 550 Sixth Avenue.

Q. And what is your occupation?

A. Hotel owner.

Q. And what hotel is that?

A. The Fifth Avenue Hotel. [376]

Q. And where is that located?

A. At 637 Fifth Avenue.

Q. In what city is that located?

A. Fairbanks.

(Testimony of Beulah Whispell.)

Q. How long have you operated that hotel?

A. Since the latter part of '48.

Q. You were operating that hotel during June and July of last year; is that correct?

A. Yes, I was.

Q. Now, in your operation of that hotel, Miss Whispell, do you keep records and registrations of persons that stay at your hotel?

A. Yes, I do.

Q. Are they kept under your care and custody?

A. Yes, they are.

Q. Are you required to keep such records?

A. Yes, by law.

Q. Have you made a check of your records before coming to this court, Miss Whispell?

A. Yes, I did.

Q. And during that course, that checking of the records have you found a registration pertaining to a J. Bennett?

A. Yes, I have.

Q. Do you have that record with you?

A. Yes.

Q. And did you also make a further check to find if there was another party that accompanied Mr. Bennett at your hotel? [377]

A. Yes, I have.

Q. And do you have that record with you?

A. Yes, I have.

Mr. Yeager: May I have it, please.

The Clerk: Government's Identifications Nos. 53 and 54.

(Testimony of Beulah Whispell.)

(Room registration cards from Fifth Avenue Hotel were marked Government's Identification No. 53 and Government's Identification No. 54.)

Q. (By Mr. Yeager): Miss Whispell, I hand you Government's Identification No. 53; will you identify that, please?

A. That is a registration card for J. J. Bennett.

Q. I also hand you Government's Identification 54.

A. That is a registration card for Norma Barkly and Mary An Persine.

Q. Will you state whether or not they accompanied Mr. Bennett to your hotel at that time?

A. The registrations were both made at the same time for a party of four. They were paid for by one person.

Q. Who was that person that paid for that?

A. Mr. Bennett paid their room rent.

Q. And these records are kept in your normal course of business; is that correct? A. Yes.

Mr. Yeager: Your Honor, I offer Government's Identifications 53 and 54 into evidence. [378]

Mr. Taylor: We are going to object, your Honor, upon the grounds there is certain writings upon the Exhibits that has not been explained; for the further reason that one of the exhibits, your Honor, or the Identifications is not, does not show any parties connected with this case—Norma Barkly and some other girls. I don't think that connects any-

(Testimony of Beulah Whispell.)

body with this case so far as we can ascertain at the present time. I don't think it would be admissible at this time.

The Court: Objection overruled. It may be admitted.

The Clerk: Identification No. 53 is Government's Exhibit "S"; and Identification No. 54 is Government's Exhibit "T."

(Government's Identification No. 53 was received in evidence as Government's Exhibit "S"; Government's Identification No. 54 was received in evidence as Government's Exhibit "T.")

Q. (By Mr. Yeager): Mrs. Whispell, I hand you Government's Exhibit "S." I wonder if you would explain that, please?

A. What do you want to know about it?

Q. Just explain what is on there, please, to the court and jury?

A. Well, their registration and their home, Irving, Texas, and my record of payment on the back. Notation, wanting a house, and after Mr. Bennett was taken in custody apparently came back and was unable to pay his bill at that [379] time, and made arrangements. That is what this explanation is on the bottom here.

Q. Can you state whether or not he paid for two rooms at that time?

A. He didn't pay for anything at that time. He was broke.

(Testimony of Beulah Whispell.)

Q. At a later time?

A. Yes, he did. He paid for whatever was owing on the two rooms because we happened to have all of the luggage from the two rooms.

Q. Can you state what the numbers of these rooms were?

A. When they registered in, they registered in 404. That was Mr. Bennett, and 401 on the other card. Two days later they moved. Mr. Bennett moved to 405 and the young ladies moved to 404.

Q. I hand you the other Government Exhibit, Mrs. Whispell. I wonder if you could tell me whether or not the persons on there registered in your hotel, at the present time?

A. I couldn't swear to it, no. I couldn't identify any of the bunch except Mr. Bennett by name.

Q. But you know that they did come in as a party; is that correct?

A. They all registered in as a party according to the desk clerk at the time.

Q. And the last Government Exhibit that I handed to [380] you there, Mrs. Whispell, can you give the address and the room number?

A. That was Norma Barkly and Mary An Persine. They registered from Odessa, Texas, and they were registered in 401 and two days later moved to 404 after Mr. Bennett had moved to 405.

Mr. Yeager: That's fine. Your witness, Mr. Taylor.

(Testimony of Beulah Whispell.)

Cross-Examination

By Mr. Taylor:

Q. Bea, did you become acquainted with Mr. Bennett's wife at that time?

A. No, I did not. I don't even know Mr. Bennett's wife now.

Q. You do know that Mr. Bennett's wife was with him in the room?

A. That was my understanding.

Q. And then these other two girls, they had another room and later moved to adjoining rooms to Mr. and Mrs. Bennett?

A. Yes.

Q. How long did they remain there, Bea?

A. I don't remember. It is on the card there. Several days. They remained there until they were picked up. I don't remember what day they were registered in there.

Q. Did you see any conduct on the part of any of these people that would be, that would cause them to be the subject of arrest, Mrs. Whispell? [381]

A. I didn't even see the people before they were arrested at all. I saw nothing from them and the watchman didn't see anything over there out of order.

Q. Kept to themselves as orderly tenants?

A. Yes, they did.

Mr. Taylor: That's all.

Mr. Yeager: That's all. Thank you very much.

(Witness excused.)

Mr. Stevens: Your Honor, at this time I would like the record to show that I am serving on Mr. Taylor government's ten requested instructions in this case. We ask for a continuance until two o'clock.

The Court: Very well. The cause will be continued upon adjournment until two o'clock this afternoon, and the jury will be excused in a moment until two o'clock this afternoon. During the period in between remember not to talk about the case or to permit anyone to talk about the case or the parties within your hearing. Keep your minds perfectly free from an opinion as to the guilt or innocence of these defendants, or any of them, until the case is finally submitted to you.

Make the adjournment until two.

The Clerk: Court is recessed until two o'clock.

(Thereupon, at 11:30 a.m., a recess was taken until 2:00 p.m.) [382]

Afternoon Session

(The trial of this cause was resumed at 2:05 p.m., pursuant to the noon recess.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of Court proceeded to call the roll of the jury.)

The Clerk: They are all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case?

Mr. Stevens: Yes, your Honor.

Mr. Taylor: Defendants are ready.

The Court: Very well. Call your witness.

WALTER R. BROWN

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Mr. Stevens: Will you hold that right about two inches from your mouth, please.

Q. Will you state your name, please?

A. Walter R. Brown.

Q. Where do you live, Mr. Brown.

A. Odessa.

Q. Odessa, Texas? A. Yes, sir.

Q. And did you live in Odessa, Texas, in June of 1953? A. I did. [383]

Q. Did you know Mr. James Bennett there?

A. I knew of him. I didn't know too much about him.

Q. Is that Mr. Bennett sitting at the table?

A. Yes, sir.

Q. Do you know Betty Bennett?

A. Yes, sir.

Q. And did you know, or did you see Marilyn Jean Casey in Odessa, Texas?

A. I don't know about that name.

Q. This is Government's Exhibit "R," Mr. Brown. Do you recognize that girl?

A. Yes, sir. I seen her once or twice.

Q. Where did you see her?

A. I seen her come by the Highway Courts, the Highway Courts once or twice.

(Testimony of Walter R. Brown.)

Q. The Highway 80 Courts?

A. Yes, sir.

Q. And where was that?

A. In Odessa, Texas.

Q. And who was she with at that time?

A. I seen her with Mr. Bennett.

Q. Did you know the name of any other girl that was there at the Highway 80 Courts at that time with Mr. Bennett?

A. Well, not with Mr. Bennett. I know some more girls was there.

Q. Was there anyone else there with Mrs. Bennett, Betty Bennett? [384]

A. I seen another girl there with Betty Bennett.

Q. Who was that girl? A. Sharon.

Q. Sharon? A. Yes.

Q. And what did you do at the Highway 80 Courts, Mr. Brown?

A. I portered part time.

Q. You were the porter part time, is that your testimony, Mr. Brown? A. Yes, sir.

Q. Did you have anything to do with Betty Bennett while you were down there working at the Highway 80 Courts?

A. Yes, sir. She worked at the Highway 80 Courts.

Mr. Taylor: Just a moment, Mr. Brown. Your Honor, I am going to object to the line of questioning upon the grounds that this is a deliberate attempt on the part of the government to prejudice the jury against Mrs. Fern Bennett, attempting to

(Testimony of Walter R. Brown.)

discredit her credibility prior to her testifying on the stand, your Honor. We feel it is entirely out of order, improper, and the evidence adduced here is incompetent, irrelevant and immaterial.

The Court: Objection overruled.

Q. (By Mr. Stevens): What did she do at the Highway 80 Courts, Mr. Brown; what did Betty Bennett do there? [385]

A. She was a prostitute there.

Q. And did you have any connection with her?

A. No, sir, I didn't.

Q. Well, as a porter at the Highway 80 Courts, did you derive any money from these prostitution activities?

A. Yes, I did, once.

Q. How did that come about?

A. Well, while the main porter was gone.

Q. And how did you get the money?

A. I just went up and asked them for it.

Q. Asked who for it?

A. Betty.

Q. And why was that?

A. Sir?

Q. Why did you have the money coming to you from Betty Bennett?

A. From dates.

Q. Well, how did you know that she had had a date?

A. Well, I would send guys around there to the other porter and he would take them around.

Q. And did you receive some money from Betty Bennett?

A. Yes, I did once.

Q. Mr. Brown, this is Government's Identification "E"—15—

The Clerk: That is an Exhibit now. [386]

(Testimony of Walter R. Brown.)

Q. (By Mr. Stevens): Exhibit "15"; do you know who that is?

A. One of them is Jack Bennett. I don't know who this lady is, I don't believe. Can't tell with the glasses on.

Q. Do you recognize either of the two women sitting in the first row of the courtroom on your left over here?

Mr. Stevens: Your Honor, may we ask Mrs. Bennett and Miss Crosby to stand, please.

Mr. Taylor: Your Honor, I believe it would be more a fair proposition to have this witness point them out instead of having them stand.

The Court: Very well. I will follow that.

A. Well, I know them.

Q. (By Mr. Stevens): Do you know Betty Bennett? A. Yes, sir, I know Betty.

Q. Well, point them out, will you, please.

A. Right there on the end over there.

The Court: Walk over close to her so we can see what you mean.

Q. (By Mr. Stevens): Walk right over to the person you know as Betty Bennett, will you, please. You can't take that microphone with you. Just walk right over to them.

A. This is Betty and this is Sharon.

The Court: Just a minute. Point out the girl. Go right over close to her. [387]

Mr. Brown: This is Betty.

Q. (By Mr. Stevens): And who is the other girl? A. I know her as Sharon.

(Testimony of Walter R. Brown.)

Q. Fine. Will you take your witness chair back again, Mr. Brown, please. Did you know what kind of a car Mr. Bennett had in June of 1953?

A. Well, all I know about Mr. Bennett while I was there he was some kind of used car dealer. He was buying cars and selling them in Lubbock the way I understood, so that is about all I know about him.

Q. Can you tell us, did you ever see him driving a car?

A. Yes, sir. I seen him drive several different cars. I seen him drive an Oldsmobile once, twice; and I seen him driving a Cadillac once or twice, and a, I believe that is the only two cars I ever seen him drive.

Q. Did you ever see a two-tone Mercury at the Highway 80 Courts, a new Mercury?

A. Yes, sir. I seen it there once or twice.

Q. What color was it?

A. Well, I don't exactly remember, but it was two-tone.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. You say your name was Walter Brown? [388]

A. Yes, sir.

Q. Is that your right name?

A. Yes, sir. Walter R. Brown.

Q. What? A. Walter R. Brown.

Q. Walter R. Brown, and you was a porter at a place called the 80 Courts?

(Testimony of Walter R. Brown.)

A. I was part-time porter.

Q. And when did you first go to work there, Mr. Brown?

A. Well, I never was employed at the Highway 80 Courts. I just worked part time to help another boy.

Q. Well, now, when did you first, the first time that you ever went to work there?

A. Well, I don't exactly remember.

Q. Well, you don't remember whether you were working there in June of 1953?

A. Yes, I were working there then.

Q. Did you work there in May of 1953?

A. Yes, sir.

Q. Was you working there in April of 1953?

A. Yes, sir, I was working there. Let me see, end of Christmas.

Q. Christmas of 1953?

A. And '52, too, I believe.

Q. You was there Christmas '52?

A. I think I started along about then. [389]

Q. When did you first get the job at the 80 Courts?

A. Oh, I started about November in '52, November, December.

Q. And who give you the job?

A. The head porter over there at the Highway 80 Court.

Q. How many porters did they have there?

A. One.

(Testimony of Walter R. Brown.)

Q. Was that an auto court? A. Yes, sir.

Q. And how many accommodations did they have at this auto court? It was a motel, is that what it was? A. Yes, sir.

Q. And how many porters did they have there?

A. They just had one.

Q. That was the head porter?

A. Yes, sir, and I just worked, you know, helped him.

Q. And what time of the day did you work?

A. I would go to work around 7:30, eight o'clock in the afternoon.

Q. Seven-thirty or eight o'clock in the afternoon? A. Yes, sir.

Q. And then how late would you work at night?

A. Some nights I worked till twelve or one; some other nights I worked till three.

Q. Sometimes you worked four, five, seven hours a night? [390] A. Sometimes.

Q. And how many nights a week?

A. Well, sometime I worked three nights a week; sometime I worked four nights a week.

Q. And then did you work that regularly from the time that you went there in November of 1952?

A. No, sir, not that.

Q. You have other jobs?

A. I had another job I worked.

Q. And when did you take the other job?

A. I take another job in '50. I worked on it till '53.

Q. When did you take the other job?

(Testimony of Walter R. Brown.)

A. In '50.

Q. 1950? A. Yes, sir.

Q. A job other than working at the 80 Courts?

A. I was working on the other job all the time.

Q. Oh, this was just an added odd-time job, was it? A. Yes, sir.

Q. A few hours a week you put in?

A. Yes, sir.

Q. And who owned the 80 Courts?

A. Hattie DeYoung.

Q. What were your duties there?

A. At the Highway 80 Courts?

Q. Yeah. A. I just rented rooms. [391]

Q. Now, when did you first see Betty Bennett at the Highway 80 Courts?

A. Well, I don't remember just when the first time I seen her. I seen her there about once or twice.

Q. She was there about once or twice all the time you were there?

A. Just stopped there with her car.

Q. Just stopped there with her car?

A. Yes, sir.

Q. And so from the time that you went to work there in '52 up until the time that you came up here you saw Betty Bennett about twice at the Highway 80 Courts; is that right?

A. Yes, sir.

Q. And was she with Mr. Bennett either time that she was there?

A. No, sir, I never seen her with him.

(Testimony of Walter R. Brown.)

Q. Now, you said that you saw a car, a two-tone car; do you remember what the color of that two-tone car was? A. No, sir, I don't.

Q. Do you know what make of car it was?

A. It was a Mercury.

Q. What?

A. It was a Mercury to my knowledge.

Q. And you say you saw Mr. Bennett at some-time with an Oldsmobile?

A. Yes, sir, he had an Oldsmobile. [392]

Q. He had a Cadillac? A. Yes, sir.

Q. And what other kind of a car did he drive?

A. Well, I seen him drive—well——

Q. He have a Chev? A. Sir?

Q. He had a Chevrolet, too?

A. No, sir, I never seen him drive a Chevrolet.

Q. Chrysler?

A. No, but I heard him say once or twice that he was going to pick up some cars the next day.

Q. His business was selling cars?

A. Yes, sir, that's what I understood.

Q. Did you ever buy a car from him?

A. No, sir.

Q. So he was engaged in the used car business; is that right? A. Yes, sir.

Q. Did he come to the Highway 80 court at times?

A. Well, he came there about once or twice to spend the night.

Q. And that was the only time you ever seen Mr. Bennett there? A. Yes, sir.

(Testimony of Walter R. Brown.)

Q. Are you still working there?

A. No, sir. [393]

Q. How long ago did you quit?

A. I quit right about, right back about November or October last year.

Q. Now, Mr. Brown, I am going to hand you Plaintiff's Exhibit "R" and ask you to look carefully at that photograph and I want you to tell me truthfully whether or not you have ever seen that girl before, ever seen the original of that picture?

A. I seen the girl that reminds me of her. I mean I couldn't swear to her. I mean she was a blonde-headed girl.

Q. And where did you see a blonde-haired girl that looked like that?

A. I seen one one time came by with Mr. Bennett.

Q. You ever been in Galveston?

A. No, sir.

Q. What? A. No, sir.

Q. Now, if the evidence should show here that that girl was from Galveston would you say that you had seen her at Highway 80 courts?

A. Well, all I could say, I seen a girl that looked like this. reminded me of this girl.

Q. It just reminds you of this girl?

A. Yes, sir.

Q. And you don't know whether you seen that girl at the Highway 80 Courts or not; is that right? [394]

A. Well, if it wasn't her—I never said I seen

(Testimony of Walter R. Brown.)

her in the Highway 80 Court. I said I seen her with Mr. Bennett one night.

Q. What night?

A. I don't know just what night it was.

Q. Well, what month was it?

A. I don't remember. Just before I quit out to the Highway 80 Court.

Q. That would be along the last of October or November?

A. Yes, sir, he drove by.

Q. So you saw this girl with Mr. Bennett out at the Highway 80 Court sometime in October or November of 1953; is that right?

A. I seen a girl that looked like her.

Q. Now, you don't know whether that is the girl or not though. Now, what was the girl's name that you say looked like the picture? Did you ever hear her name spoken?

A. Yes, sir, I heard the name mentioned one time.

Q. What was it?

A. I don't remember right now. I knew.

Q. Isn't it a fact, Mr. Brown, you don't remember ever seeing that girl at all, do you?

A. Well, just like I told you, I seen a girl that looked like her, I mean reminded me of her. Of course, it don't have to be her because when I seen her she didn't look like this. [395]

Q. She looked like somebody that you had known, but she didn't look like that; is that right?

A. I mean her face reminded me.

Q. What was the difference in the face?

(Testimony of Walter R. Brown.)

A. Well, I guess her hair ain't fixed the same way, or something.

Q. How did the one that you knew fix her hair?

A. I believe she wore it in an upsweep.

Q. An upsweep, and was it that color?

A. Yeah, it was a blonde-haired girl.

Q. You realize girls can change the color of their hair at the drop of the hat, can't they?

A. They can do that.

Q. Now, Mr. Brown, you said you saw Mrs. Fern Bennett at this Highway Court a couple of times, and you saw Mr. Bennett there a couple of times; is that right?

A. Yes, sir.

Q. Now, who did you first talk to about this case, Mr. Brown, before you left Odessa?

A. Well, this case here, I don't know the guy's name. Somebody come to my house and asked me did I know the girl.

Q. Asked you if you knew that girl?

A. I don't think they had a picture of this girl here.

Q. Did they give a description of the girl that you was supposed to know?

A. Yes, sir. [396]

Q. And did you tell them you knew a girl like this?

A. I told them I seen him with a blonde-headed girl one night, came by the store there, but that is all I knew about it.

Q. And who was the man that came to see you?

A. Well, I think it was Mr. Wright and some other law from——

(Testimony of Walter R. Brown.)

Q. How long ago was that?

A. Oh, that was about, approximately three months ago, four.

Q. Mr. Wright you say?

A. Yes, I believe it was.

Q. He is a—what does he do?

A. What do he do?

Q. Yeah. A. I don't know.

Q. Is he in Fairbanks at the present time?

A. I think he is.

Q. Who met you at the plane, Mr. Brown?

A. Well, I don't know the guy's name, some U. S. Marshal.

Q. And have you talked to anybody since you came into Fairbanks?

A. Yes, sir, I talked to the U. S. Marshal.

Q. To the Marshal; that all?

A. Well, I seen all of them, the FBI man. [397]

Q. They all been on your trail, have they, Walter? A. Yes.

Q. And what did they tell you that they wanted you to talk about?

A. Oh, they, all they told me was that they asked me some questions and I told them all I could say is what I know, what I don't know I couldn't say it.

Q. And about all you have testified to what you don't know here is about what you know; is that right? A. Well, I told you all I know.

Q. You know that you saw this girl with Mr. Bennett in October or November of 1953 in Odessa?

(Testimony of Walter R. Brown.)

A. I didn't say that. I said I seen a girl that reminds me of this.

Q. A girl that looks like that? A. Yes.

Q. And you saw Mrs. Bennett at the Highway 80 Courts a couple of times during the period you worked there; is that right? A. Yes, sir.

Q. And you saw Mr. Bennett come there a couple of times during the time you worked there?

A. Well, he stayed there one night, and one night he just came by.

Q. One night he stayed there and the other night he didn't stay; is that right. [398] A. No, sir.

Q. Did you ever see him around in Odessa?

A. No, sir.

Q. And is that the only two times you ever saw Mr. Bennett? A. Yes, sir.

Q. And do you know which one of the gentlemen sitting at the table over there is Mr. Bennett?

A. Yes, sir. I don't forget a face.

Q. Which one is it; the man on the right or the left? Oh, not this fellow here next to Mr. Rivers?

A. Yes, sir, that is Mr. Bennett right there.

Q. You recognize him from the time he came out there to Highway 80 Courts?

A. Yes, sir, the night he stayed out there I mean. I talked to him. I know I gave him Room 7.

Q. One time he had a Cadillac; one time he had an Oldsmobile; is that right?

A. Yes, sir, he told me he just bought that Olds-

(Testimony of Walter R. Brown.)

mobile, was going to put it up on a lot in Lubbock or Amarillo somewhere.

Q. Is that the only time you ever talked to Mr. Bennett? A. Yes, sir.

Q. You talked to Mr. Wright since you been in town? A. Yes, sir.

Q. And did he tell you what you was supposed to testify here today? [399]

A. No, sir. He just asked me did I remember him, and I told him I did.

Q. That is if you remembered this girl?

A. No, he didn't ask me anything about that girl.

Q. Just asked if you remembered Betty Bennett and who else?

A. And Jack Bennett and Sharon. I told him I remembered them.

Q. That was all. That's all that you remembered then. Now, was these, was Jack Bennett and that other gentleman sitting over there, or Mrs. Bennett or that other girl, were they pointed out to you out here in the hallway before you came into here, this courtroom? A. No, sir, they wasn't.

Q. And were they pointed out to you after you came in the courtroom? A. No, sir.

Q. Were you told who they were?

A. I knew them.

Q. You knew Mr. Bennett, Mrs. Bennett and that other girl, whatever her name was—what was her name? A. Sharon.

Q. When did you leave Odessa, Mr. Brown?

(Testimony of Walter R. Brown.)

A. I left on the 12th.

Q. The 12th of May? A. Yes, sir. [400]

Q. By air, I suppose? A. Yes, sir.

Q. Now, you state you got some money from Betty Bennett one time? A. Yes, sir, I did.

Q. Did you get money from other people that came to the motel? A. I have.

Q. And did you get any regular salary?

A. Yes, sir.

Q. And was this money you got, was that tips?

A. Well, I wouldn't say that. I just—the other guys told me to go around and collect some money. That's what I did.

Q. Oh, that was the money for the motel?

A. Well, I don't know for the motel or not.

Q. What?

A. Just told me to go around and collect some money. That's what I did.

Q. How much did you collect?

A. I don't know, twenty-five, thirty dollars.

Q. And they owed twenty-five or thirty dollars?

A. I don't know what they owed. That is what they gave me.

Q. And how much did you get of that?

A. I didn't get none of it. [401]

Q. Now, isn't it a fact, Mr. Brown, that you got part of the money that you—

A. I was supposed to have, but I didn't.

Q. Well, you had your hands on the money, didn't you? A. Yes, sir.

(Testimony of Walter R. Brown.)

Q. How did you happen to let it slip through your fingers?

A. The other porter went to eat.

Q. The other fellow went to eat?

A. Take the money with him and he didn't come back.

Q. You was left holding the bag; is that right?

A. Yes, sir.

Q. And did he ever pay you? A. No.

Q. Do you know how much the total bill was at the time that you collected twenty-five or thirty dollars? A. No, sir, I don't.

Q. Did this man that sent you to collect, did he tell you how much they owed? A. No, sir.

Q. Just told you to go collect? A. Yes, sir.

Q. And it was for rent of the motel, was that right?

A. I don't know what it was for. I didn't ask him that.

Q. Did they serve liquor at that motel? [402]

A. Well, if they wanted it, get it for them.

Q. Oh, you would go get it for them?

A. Yes, sir.

Q. But they had no liquor at the motel itself; is that right? A. No, sir.

Q. And if they wanted liquor you go get it then, sell it to them? A. Yes, sir.

Q. A little bootlegging on the side, was it?

A. Yes, I guess that is what you call it.

Q. I suppose you want to get back to Odessa, do you, Walter? A. Yes, sir.

(Testimony of Walter R. Brown.)

Mr. Taylor: Well, as far as I'm concerned, you can go right now.

Mr. Stevens: Maybe you should take a bow, Mr. Taylor.

Redirect Examination

By Mr. Stevens:

Q. Now, Mr. Brown, did you ever send a man to Betty Bennett for the purpose of prostitution?

A. Well, the other guy, he worked on the back and I just turned around to him and he just turned them over to the girl.

Q. And is that what you collected the money for from [403] Betty Bennett, for sending the men around there?

A. Well, I don't know. I didn't send the man directly around there, but the other guy sent him around there and he told me that is what it was for.

Q. He told you to collect your share?

A. No, he told me to collect from the girl and he would be back in a few minutes.

Q. And you did collect from her?

A. Yes, sir.

Q. Now, this girl that looks like the girl that was with Mr. Bennett, you told Mr. Taylor you thought you saw them sometime around October or November; is that right?

A. Yes, I guess that is about when it was.

Q. Do you remember when all these people left Odessa? A. No, sir, I don't.

Q. Do you remember when the last time you saw Mrs. Bennett down there, Betty Bennett?

(Testimony of Walter R. Brown.)

A. No, sir, I don't believe I remember when the last time was.

Q. Well, are you sure about those times. If the record here shows that they weren't in Odessa there, were you sure that you saw them then in October or November?

A. I'm pretty sure I seen them somewhere along in there. I mean I couldn't swear to that because I don't remember that far back.

Q. Now, do you remember seeing the two men you say you saw? Mr. Wright was one of [404] them?

A. Yes, sir, I remember Mr. Wright.

Q. And do you know Mr. Dahl down there?

A. Yes, sir.

Q. Do you know what his business is?

A. Yes, sir.

Q. What is his business?

A. Mr. Dahl is law, some kind of law.

Q. Is he the FBI Agent down there?

A. Who, Mr. Dahl?

Q. Yeah. A. No, sir.

Q. You don't know him as the FBI Agent?

A. No, sir.

Q. Do you know who Cap West is?

A. Who is that?

Q. Captain West? A. Yes, sir.

Q. Who is he?

A. He is the law that came to my house.

The Clerk: Government's Identification No. 55.

(Statement signed by Walter Brown was marked Government's Identification No. 55.)

(Testimony of Walter R. Brown.)

Q. (By Mr. Stevens): Do you remember the exact time that you saw Mr. Bennett down there?

A. No, sir, I can't remember the exact [405] time.

Q. Did you tell the officers that came to see you, did you tell them that the time you told them, did you tell them the right time; did you remember then?

A. Well, I told them close that I could remember. I told them that. I'm not awfully sure. That was a guess at it.

Q. This is Government's Identification 55, Mr. Brown; do you recognize that?

A. Yes, sir, I recognize this.

Q. Did you sign that statement?

A. Yes, I signed it.

Q. Is the date on the front page of that statement the right date, Mr. Brown?

A. Yes, I believe it is.

Q. Well, that was sometime in October, wasn't it?

A. Yes, sir.

Q. Well, then, it must have been sometime before that that you had seen Mr. Bennett?

Mr. Taylor: Just a moment, your Honor. I am going to object to the suggestive questions.

The Court: Objection sustained.

Q. (By Mr. Stevens): Now, Mr. Brown, after you refreshed your recollection then, do you remember when you did see Mr. Bennett and these girls in Odessa?

Mr. Taylor: Just a moment, Mr. Brown. I am

(Testimony of Walter R. Brown.)

going to object to the question as this witness hasn't testified [406] that he needed something to refresh his memory and we are going to object to him testifying from this piece of paper. I think it is improper.

The Court: Lay your foundation.

Mr. Stevens: Very well, your Honor. Just hold that up there for a minute, Mr. Brown.

Q. (By Mr. Stevens): All this that you have told us, do you remember the dates just exactly right now, without looking at that paper?

A. I don't believe I do. We can try and see.

Q. And did you put down the dates on that statement; was that statement made prior to coming before this court?

A. I didn't put the dates down, no, sir, but they was put down.

Q. And who put those down?

A. Mr. Wright.

Q. And where was that?

A. When they put them down?

Q. Yeah. A. In Odessa.

Q. And is that when you said before when they came to your house?

A. Yes, sir, they came to my house. I wasn't at home. It was out of their way, so they came to my job and got me.

Q. Everything that is on that statement is right? [407]

A. Well, I see one thing on here about some other girl. I mean I told them I didn't know any-

(Testimony of Walter R. Brown.)

thing about her, but I think he got it down here that I did.

Q. Which girl was that? Don't look at the statement.

A. Well, I don't know who the girl was, but he said, I think a blonde-headed girl. I told him I seen her once, but that is all I know about her.

Q. Well, let's put it this way then, Mr. Brown. Do you remember how long before you made this statement that you had seen Mr. Bennett?

A. Must have been two or three months I know, because I had been working on the other job about three months.

Mr. Stevens: Your witness, Mr. Taylor.

Recross-Examination

By Mr. Taylor:

Q. Mr. Brown, did you state in response to a question by Mr. Stevens there was things down on that paper that you had not told them?

A. I see one thing down here that I told them I didn't know nothing about this other girl, but sometimes——

Q. What did they do, just tell you to leave it on there, let it go as it was?

A. Well, he was writing it I guess.

Q. So somebody else wrote that out, did they, Mr. Brown? A. Yes, sir. I signed it. [408]

Q. They wrote it out and you signed it. They put their own words on there, did they?

A. Yes, sir. I see they put one word on here.

(Testimony of Walter R. Brown.)

Mr. Stevens: Your Honor, before Mr. Taylor takes this move, I think that he should inform this witness that the appearance of this girl has changed considerably and there is evidence before this court to that effect.

The Court: Well, he can examine her whatever way he sees fit.

Mr. Stevens: Well, he is examining one witness and he is bringing another witness before the court. Mr. Taylor is the one that has invoked the rule. I have no objection to his showing this witness Marilyn Jean Casey, but I am going to insist on his laying the proper foundation before he produces her. Miss Casey is a witness before this court and I am going to exclude any other witness from this court while another witness is testifying.

Mr. Taylor: Marilyn Casey is an exhibit, not a witness, your Honor.

Mr. Stevens: You can say that again, Mr. Taylor.

The Court: Call your exhibit.

(At this stage in the proceedings, the witness Marilyn Jean Casey entered the courtroom.)

Q. (By Mr. Taylor): Mr. Brown, would you take a look at that lady and state whether you have ever seen her before?

A. No, sir, I never seen her. [409]

Mr. Taylor: That's all.

Mr. Stevens: Just a moment, Marilyn. Just stay right there.

(Testimony of Walter R. Brown.)

Redirect Examination

By Mr. Stevens:

Q. Mr. Brown, do you know this girl is the same girl that is in that picture?

A. No, sir, I didn't know that.

Mr. Stevens: That's all.

Mr. Taylor: That's all.

(At this stage in the proceedings, the witness Marilyn Jean Casey withdrew from the courtroom.)

(Witness excused.)

Mr. Taylor: Could we have the recess now, your Honor. It is getting kind of stuffy in here.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 2:57 p.m., the court took a recess until 3:02 p.m., at which time it reconvened and the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

The Court: Very well. Proceed.

Mr. Stevens: The government rests, your Honor.

Mr. Taylor: Your Honor, I would like to make a [410] motion in this case out of the presence of the jury, and I also have one witness I would like to call now to take her testimony and then in the

event that the court overrules the motion, we will have the testimony in court.

The Court: Can't you put the witness on in the usual order and then if you find you are going to use him then put him on?

Mr. Taylor: Well, he goes to work in a short time, your Honor, and I think possibly this argument—we would just like to have his testimony and in case we don't need it, we will have it anyway.

The Court: Very well. Call him.

Mr. Taylor: Mr. Burney, please.

ACEL BURNEY

a witness called on behalf of the defendants, was duly sworn and testified as follows:

Direct Examination

By Mr. Taylor:

Q. Will you state your name, please.

A. Accl F. Burney.

Q. Where do you reside, Mr. Burney?

A. Working at the Capri Cafe in Fairbanks.

Q. And how long have you lived in Fairbanks?

A. Well, let's see. I have been here since February 20th.

Q. What is your occupation? [411]

A. Cook.

Q. And do you have any other occupation but cook?

A. Well, sometimes I lay block, in the middle of the summer for a construction company. That's all, sir.

(Testimony of Acel Burney.)

Q. Where did you live prior to coming to Fairbanks? A. In Anchorage.

Q. And what occupation did you follow in Anchorage?

A. Well, I was driving a cab there, sir.

Q. Are you acquainted with Wesley Kehert, the gentleman sitting at the end of the table?

A. Yes, I am.

Q. How long have you known Mr. Kehert?

A. Well, let's see. I have known Mr. Kehert around about three years.

Q. Were you living in or around Anchorage during the month of May, 1953? A. Yes.

Q. And now, during that month did you see Mr. Kehert?

A. Mr. Kehert was, I was driving cab and Mr. Kehert was working at the Green Lantern at a night club there, a waiter there.

Q. How often did you see Mr. Kehert during the month of May, 1953?

A. Well, every night, sir, I was there.

Q. And then would you say that Mr. Kehert throughout the month of May, 1953, was residing in Anchorage? A. Yes, I would. [412]

Q. And you saw him practically every day for, during the month of May?

A. Yes, and I believe if I get my dates correct, him and I lived together the last two weeks of May at the Lone Star Motel there.

Q. You occupied the same room?

A. Same apartment, yes.

(Testimony of Acel Burney.)

Q. And did he continue to live in Anchorage after the month of May?

A. Well, I believe I moved out. It was around about the 2nd or 3rd of June, and I seen Steve two or three times after that, but then I went to work on another job and I didn't see him after that and haven't seen him since.

Q. Then before the first of May how often had you seen him at that time?

A. Well, I think he was working around—let's see. He was working at this Green Lantern, seemed to me like it was close to two months.

Q. Do you know of a Cafe or Club there named the Bell and Whistle?

A. Well, used to be the old Green Lantern. That's the same Club.

Q. The Bell and Whistle and the Green Lantern are one and the same? A. Yes.

Q. Who is operating it?

A. Larry Sears. [413]

Q. Now dead? A. Now dead, yes.

Mr. Taylor: You may take the witness.

Cross-Examination

By Mr. Stevens:

Q. You say you lived together for two or three weeks?

A. I believe it was a couple of weeks, sir.

Q. And where did you live?

A. North Star Motel.

Q. And where is that?

(Testimony of Acel Burney.)

A. In Anchorage. It is out on, I think they call it Potter Road. It is the highway to Seward there, sir.

Q. Did you know that gentleman sitting on the end of the table by another name than Kehert; what name did you know him by?

A. Well, I knew him by Kehert, Steve.

Q. Steve what?

A. Steve Williams, I believe. Yes.

Q. And did you know a girl that he was engaged to at that time?

A. Well, at that time Steve and I, we was kind of playing the field at that time. We was kind of romancing around. We didn't have many steady girl friends.

Q. Well, was he engaged to a girl down in Texas?

A. I couldn't say for sure. I didn't ask him his business. [414]

Q. What was his business?

A. Well, his business, he was a waiter there at the night club where he was working there at the Green Lantern.

Q. Drove cab, too, once in awhile?

A. Steve?

Q. Yes.

A. I don't recall him ever driving a cab there, no.

Q. Did he have any connection with prostitution? A. With what?

Q. Prostitution.

(Testimony of Acel Burney.)

A. Well, not that I know of.

Q. Do you know when he went back to Texas?

A. No, I didn't. I was out of town, but I know that he couldn't have left until the, if he went to Texas at all he couldn't have left there until after the first of June, I know.

Q. And do you know whether he did go to Texas?

A. I don't know where he went, to be frank with you. This is the first time I had seen him for, Oh, I don't know, for quite sometime. I got out on these camp jobs at Whittier; then I come up here and worked for awhile. I worked at Elmendorf and haven't seen anybody.

Q. Were you—where did you work last summer?

A. Wright Constructions Company at Anchorage.

Q. When did you start to work there?

A. After I quit driving cab. It was around September the first. I was laying block and it rained so much I couldn't work. [415]

Q. Do you know whether or not Mr. Williams, as you knew him, made any trips to Texas during the first part of the year of 1953?

A. I don't think he did.

Q. He was in Anchorage all the time?

A. I believe so, yes.

Q. And he wasn't connected at all with prostitution?

A. Not that I know of, no.

Q. He didn't drive any cabs?

(Testimony of Acel Burney.)

A. He didn't drive any cabs to my knowledge.

Q. He was working for a man that is now dead?

A. He was working for Larry Sears, yes, that is now passed away.

Q. Will you, did you know Mr. Kehert when he got in trouble down in Anchorage?

A. Was he in trouble in Anchorage?

Q. Well, did you know him in April and May of 1953? A. Yes.

Q. And did you know him well at that time?

A. Yeah, I heard something about a little beef out there. I don't know—something about a cabin or something like that. I didn't pay any attention to it. It was none of my business.

Q. When was that?

A. Oh, that was, it must have been the first part of the year, around in May or April, sometime in there. [416]

Q. Was that near the time that you were living with him?

A. No, he wasn't in no trouble when I was living with him.

Q. Was that after he was in trouble that you were living with him?

A. I was living with him. I guess if he was in trouble that must have been after, because he wasn't in no trouble when I was living with him.

Q. How long did you know him?

A. Seemed to me it was close to two months. My memory is kind of bad. I used to see him every night there for a month or so, I know.

(Testimony of Acel Burney.)

Q. Well, is your memory such that you could say for sure that you saw Mr. Kehert there the last two weeks of May?

A. Oh, positively. I know he was there the last two weeks of May, yes.

Q. And you know that he was not in Texas?

A. Well, I would go so far as to say he wasn't in Texas the last two weeks of May. I know he wasn't. I would have to dig down, get my rent receipts, but I am pretty sure that he wasn't.

Q. Where did you live before you came to Anchorage? A. Where did I live?

Q. Yes.

A. Well, I left Tule Lake, California, when I come to Anchorage. [417]

Q. Where did you live before that?

A. I lived all over. Let's see. I was in La Grande. I left La Grande, Oregon.

Q. Did you ever know Mr. Kehert in the states?

A. No, I don't recall that I ever knew him there.

Q. Do you know Mr. Bennett?

A. No, I don't know Mr. Bennett.

Q. Do you know Mr. Taylor, the attorney here?

A. No, I don't know him.

Q. Never saw him before today?

A. Never saw him before today, no.

Q. And have you ever been convicted of a crime?

A. Well, I was bootlegging in Portland one time. I got arrested.

Q. Did you ever live in Odessa, Texas?

(Testimony of Acel Burney.)

A. Never been in Texas, sir.

Mr. Stevens: I believe that is all.

Mr. Taylor: That's all. I would like to excuse Mr. Burney so he can go to work.

Mr. Stevens: Well, I will excuse him, but I may want to call him back tomorrow.

The Court: What time do you want him to report tomorrow?

Mr. Stevens: Well, I don't know as yet. I will call him if I want him.

The Court: All right.

(Witness excused.) [418]

The Court: You wish to make a motion now, Mr. Taylor?

Mr. Taylor: Yes, sir.

The Court: The jury will be excused until notified to return to the courtroom.

(Thereupon, the jury withdrew, and the following proceedings were had out of the presence and hearing of the jury.)

The Court: You will be limited to ten minutes to a side in this argument.

Mr. Taylor: O.K., your Honor.

If the court please, at this time I would like to move this court for an order for a judgment of acquittal of the defendants of the crime charged in Count I of the Indictment and also make the same motion, your Honor, as to a judgment of acquittal of the crime charged in Count II of the Indictment.

Now, your Honor, in relation, in reference to Count I of the Indictment, we do not feel that there is sufficient evidence to allow the case to go to the jury in view of the fact that the only testimony as to transportation was the testimony of a government witness, Marilyn Jean Casey, who stated that she initiated a trip to Alaska from Texas, and the trip was not through any solicitation or urging of any of these defendants; that she said that she wanted to come to Alaska as she wanted to get away from Texas for awhile. Now, that is the only evidence, your Honor, and there is an attempt [419] on the part of the government to impeach their own witness by a statement that she made under duress while being held in jail and after several days of pounding by the FBI, the Deputy Marshals, the Assistant United States Attorney, who, although they claim that it was a free and voluntary statement, your Honor, I believe the facts surrounding—

The Court: Now, I don't care to have you waste time arguing that question again. I have ruled on it already.

Mr. Taylor: Well, just arguing the evidence, your Honor, here to substantiate our claim in regard to lack of evidence.

The Court: Well, make a short statement of any reference to that.

Mr. Taylor: If the court please, I would like to call the court's attention to *United States v. Biener*. That is 52 Federal Supplement 54. I believe that is a case from Pennsylvania, the District Court.

The Circuit Court of Appeals or District Court in Pennsylvania who held that in a prosecution for transporting a woman in interstate commerce for immoral purposes, where the government had no evidence to sustain the verdict of guilt other than a written statement of the witness which was repudiated by witness prior to trial and during trial, motion for arrest of judgment was granted.

Now, your Honor, that case is right in point with the present instance. Miss Casey made her statement before the FBI after five or six hours of questioning. She has testified [420] in this case to an opposite set of facts under oath, your Honor, so that the only thing they have at this time, your Honor, is a statement made by Marilyn Casey to the FBI, a written statement not sworn to, to sustain a verdict of guilty, so if this evidence was submitted to the jury, your Honor, and the jury found these defendants guilty under the rule of the case I just cited, *United States v. Biener*, that case, your Honor, would be subject to reversal.

Now, in this case at bar, there is certain evidence of, I believe, two isolated cases of intercourse on the way from Texas up here, between Mr. Kehert and Miss Casey, but in the case of *United States v. Grace*, 73 Federal Second 294, the court held that "If interstate journey was planned with no immoral purpose at time, no crime was committed since immoral relation, standing alone, unconnected with interstate commerce, does not violate federal statute."

And in *Long v. United States*, 160 Federal Second

706, the court held if the sole purpose of interstate commerce, or interstate journey with a woman or girl is legitimate, a purely incidental intent to have intercourse en route is not a federal offense. Now, there is another case right in point on this same thing. And also, in the case of *Shannon v. United States*, 92 Federal Second, Page 1, the court held it is the inducement and the transportation, not the subsequent conduct which constitutes an offense under the White Slave Act, so in this case, your Honor, they [421] have shown not one scintilla of evidence that there was an inducement on the part of any of these defendants to get Marilyn Casey into the Territory of Alaska. In fact, the inducement was on the other side. She wanted to come to Alaska and asked if she could ride with these four defendants and another girl, Carrol Ward, who was with them.

I have some other citations, but the short time that the court give, I don't believe I will have time to go into those, although I would like to call the court's attention to the case of *Thorne v. United States*, 278 Federal 933, the court held that where the girl insisted that they make the trip to another state the evidence was held insufficient to sustain a conviction. Now, in this case, the girl initiated the ride to Fairbanks, not Mr. Kehert or Mr. Bennett or Mrs. Bennett or Norma Crosby.

Now, in *Yoder v. United States*—that's 80 Federal Second at 665, the court said that under a statute condemning transportation of female in interstate commerce for immoral purpose, prospect of

sexual relations must have some relation to and be one of the reasons for or purposes of the trip; but if the sole purpose of the trip was legitimate, purely incidental intent to have intercourse is not a federal offense. The courts have held that as strictly a matter for local prosecution and not a matter for Federal prosecution.

Now, in this case, your Honor, each and every one of these defendants must have had a guilty knowledge of the [422] purpose for which Marilyn Casey was brought into the Territory. Otherwise you could not convict them.

Now, in regard to the second Count in this case, your Honor, I contend that there has not been one scintilla of evidence to show that the four defendants were acting in consort, that even by their actions or by words there is nothing to show that there was any conspiracy entered into by and between those people.

Now, in this case, the witness Marilyn Casey, wanted to come up. She did ride with them with their permission, with permission of the three girls and the two defendants here, but a person would have to indulge in conjecture and conclusion, your Honor, and only by a stretch of imagination could you say that there was a conspiracy, that their had been a meeting of the minds or that there had been any overt act to carry out any if there was an intent to start in with, to carry it out, and I would like to call the court's attention that in this particular instance it states that on the 28th day of

June, 1953, they did conspire to bring a girl from Texas to the Territory of Alaska, and on the 28th day of June, your Honor, they were all four of them were in the Territory of Alaska. There could have been no conspiracy.

We feel, your Honor, that in view of the law and the facts in this case that the court should direct a judgment of acquittal as to both Counts I and II of the Indictment.

The Court: All right, Mr. District [423] Attorney.

Mr. Stevens: Before I begin, your Honor, I would like to ask Mr. Taylor for that citation again on this 92 Federal Second 1 is what I took it as. I have 92 Federal Second here, and the case Number 1 does not pertain to the case that he cited.

Mr. Taylor: Which case was it?

Mr. Stevens: The second case you cited, Mr. Taylor, 92 Federal Second, Page 1. No. 94 Federal Second, Page 1.

Mr. Taylor: I might have called that off 92, but it was 94 Federal Second. That was an Iowa case.

Mr. Stevens: Now, your Honor, we are acquainted with 52 Federal Supplement, Page 54, *United States v. Biener*, in which the District Court in Pennsylvania did grant a motion in arrest of judgment in a case very similar to this, but I would call your Honor's attention particularly to Page 55 where the judge stated the following facts: "At the trial she testified that when she signed this statement she had been taking narcotics by reason of illness and pain; that the statement had been prepared by one of the government agents; that she

had informed the agents she had an appointment with her physician to obtain narcotics and that it was fifteen minutes past the time of her appointment; that she explained to the agents that she was signing it so that she could get away and keep her appointment, and that the agents drove her to her physician's office a few minutes after the statement was signed." Then it goes on and says "Subsequently, when she was confined in a hospital for illness, she was visited [424] by one of the Federal Bureau of Investigation agents who had taken the statement, and she again told him at that time that she would not testify to the alleged facts appearing in the written statement because they were not true."

We do not believe this is the same case here, your Honor. Miss Casey, for a period of almost four months, maintained that the statements in her original statement were true. Up until August she was still directing the Federal Bureau of Investigation to more facts to substantiate her statement. She was not taking narcotics. She was not under any doctor's care. She was not so ill she did not know what she was doing. In that case, the Judge said because there was not other evidence to substantiate the statement made by the witness that he was forced to grant a motion in arrest of judgment.

Now, in this case, the government has gone to great lengths and great expense to prove that Miss Casey in fact told the truth the first time that she told the story to the FBI. We have brought people in from Texas, from Denver, from the—from Brit-

ish Columbia, a border town at the American-Canadian border. We brought in the American Immigration Inspector at Tok and we have proved that Miss Casey's activities around here were as she originally described them. I point out to you that Miss Casey herself was responsible for locating Mr. Hudson, who testified before this court that he had in fact had intercourse with Miss Casey as an act of prostitution. [425]

We believe that this case of *United States v. Biener* is not at all similar to the case before the court.

Now in regard to the other statements of law which Mr. Taylor has cited to the court, and again we say we are not familiar with 94 Federal Second, Page 1, but we have already quoted to the court *Aplin v. United States*, Ninth Circuit Court case in 1930, concerning transportation from Salem to Chico, where the court said that the "purpose or intent is generally proved by circumstantial evidence, and may be so proved under all the authorities." We believe that we have gone through this case with the idea of proving purpose and motive and that it must be proved by circumstantial evidence particularly in a case such as this where the purpose is the element of the crime charged.

We have charged these defendants with transporting Marilyn Casey for the purpose of prostitution. It is their intent that we are after. We don't care about Marilyn Casey at all. The government would prefer to view her as an exhibit, as a matter of fact, and we believe that we have shown that her

activities in Texas were activities of prostitution; that the activities of Mr. Bennett and Mr. Kehert and these two defendants who are women were activities related to prostitution in Texas before they came here. We have shown that their activities after they arrived in Fairbanks were activities related to prostitution. From all those facts, and the facts that we have set forth that these defendants, Mr. Bennett and Mr. Kehert, drove separately across the two borders, the only [426] two places, your Honor, on the trip where records would have been made as to who was actually present in each of the three cars. In those two instances Mr. Bennett and Mr. Kehert came through the checking station alone and the four women came together. We believe that that is an element that the jury may take into consideration, and putting all of the facts together we believe that there is sufficient evidence before this court to make this a case to go to the jury. It is a jury question of fact as to whether or not the transportation was in fact for the purpose of prostitution, and we call your Honor's attention to the fact that it is not necessarily, it is not necessary for the government to prove that the only purpose of the trip was prostitution. It may be that these people actually wanted to come to Alaska also, and that their purpose was to get from Texas to Alaska, but if one of their dominant motives was for Marilyn Casey to engage in prostitution after she came to Alaska, then the government has shown its case and if the jury believes that beyond a reasonable doubt they

may return a verdict of guilty against these defendants.

Now, in regard to the conspiracy charge, I will call your Honor's attention to *Wright vs. United States*, 175 Federal Second, Page 384, an Eighth Circuit case in 1949. In that case what the defendants had done was they had taken a woman from Houston, Texas to Texarkana, Texas and let her walk across the line into Arkansas. They drove her bags up [427] to the hotel. She walked up to the hotel. And the defendants were convicted and the court on appeal stated that one who aids or brings about the transportation is guilty as if he physically and personally carried her across the line. We believe that that is in point in this case because if any of these defendants brought about the transportation of this woman across those lines in interstate commerce or for that matter, if they brought her in transportation within the Territory of Alaska, the government has proved its case.

I called your Honor's attention specifically to the fact that the White Slave Act is in force throughout the Territory of Alaska. Federal jurisdiction exists in Alaska without proving transportation in interstate commerce and for that reason we believe that we have shown to the jury that there was in fact transportation for the purpose of prostitution before they reached Fairbanks, and if the jury finds that, they may convict these defendants.

Now, from the government's point of view, the leading case, the most recent case that is, leading case, involved in this subject of white slavery, is

Dunn v. United States, and in that case, that was the Tenth Circuit, your Honor, the issues before that court were almost precisely the same as the issues before this court. They had motor lodge registrations. They had the issue of whether or not the single element of purpose need be proved. They had the issue of whether or not the accused must have the purpose and also the issue of [428] whether or not the victim, that is the person transported, must also have the purpose to enter into prostitution, and the court also, as we said before yesterday, I believe it was stated that circumstantial evidence may be used to prove the necessary intent and purpose and motive and I quote, "As bearing upon that essential element of the offense, the conduct of the parties within a reasonable time before and after the transportation may be taken into consideration."

We also have a case involving the conspiracy charge, your Honor. I believe I cited that to the court yesterday, if I have not cited it to the court in government's requested instructions, and we believe that we have shown sufficient evidence to the court to allow the case to go to the jury at this time, and to allow the defendants to go ahead with their part of the case, if they desire to do so.

Thank you, your Honor.

The Court: The motion will be denied. Call the jury.

(Thereupon, the jury re-entered the court room, and the following proceedings were had within the presence and hearing of the jury.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

The Court: Very well. Call your witness.

Mr. Taylor: If the court please, we have some evidence coming from Anchorage; got a telephone call today that [429] it will be in on the evening plane, and we would like to adjourn until ten o'clock tomorrow morning.

The Court: Don't you have witnesses to go ahead right now?

Mr. Taylor: No, sir.

The Court: You mean to say you have no witness you can put on now at all?

Mr. Taylor: I would like to get this evidence from Anchorage first and then I will know whether I am going to call either one of the defendants, your Honor.

The Court: Very well. I will grant the motion, and in a moment we will adjourn. This case will be adjourned until ten o'clock in the morning. In the meantime, ladies and gentlemen of the jury, remember not to talk about the case or the parties to the case or to permit anyone to talk about them within your hearing. Keep your minds perfectly free from an opinion as to the guilt or innocence of these defendants, or either of them, until the case is finally submitted to you.

Make the adjournment until ten o'clock in the morning, Mr. Clerk.

The Clerk: Court is adjourned until ten o'clock tomorrow morning.

(Thereupon, at 4:15 p.m., the trial of this cause was adjourned until May 14, 1954, at 10 a.m.) [430]

Be It Remembered, that upon the 14th day of May, 1954, at the hour of 10 o'clock a.m., the trial of this cause was resumed, the plaintiff and the defendants both represented by counsel, the Honorable Hary E. Pratt, District Judge, presiding:

The Court: Call the roll of the jury.

(Whereupon, the Clerk of the Court proceeded to call the roll.)

The Clerk: They are all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case?

Mr. Stevens: The government is ready, your Honor.

(At this stage in the proceedings, Mr. Taylor entered the court room.)

Mr. Taylor: Sorry, your Honor. My watch is five minutes slow.

The Court: Very well. Counsel agreeable that all members of the jury are in the box now?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

The Court: Are you ready to continue the trial of 1817 criminal, United States against Bennett, et al.?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Government is ready, your Honor.

The Court: Very well. Proceed.

Mr. Taylor: I will call Mr. Bennett, your Honor. [431]

JAMES J. BENNETT

one of the defendants, was duly sworn as a witness in his own behalf, and testified as follows:

Direct Examination

By Mr. Taylor:

Q. Will you state your name, please.

A. James J. Jefferson Bennett.

Q. And how old are you, Mr. Bennett?

A. Thirty-six.

Q. And where do you reside at the present time?

A. Anchorage, 233 Barrow.

Q. And where were you born?

A. Hopkins County, Texas.

Q. And you lived in Texas most of your life?

A. Most of it, yes.

Q. And what is your present Texas address?

A. 505 North Tom Green Street, Odessa, Texas.

Q. And you have relatives living in Texas at the present time?

A. I do.

Q. Who?

A. Father.

Q. And how long have you been a resident of Alaska?

A. A little better than five years in and out.

Q. And where has that residence been?

A. Anchorage.

Q. And are you married, Mr. Bennett? [432]

(Testimony of James J. Bennett.)

A. Yes.

Q. And what is your wife's name?

A. Fern Bennett.

Q. And you are the defendant in the case, one of the defendants in the case on trial at the present time?

A. I am.

Q. Now, Mr. Bennett, were you engaged in business in Odessa, Texas, before coming to Alaska?

A. I was.

Q. And what was that business?

A. Buying and selling automobiles.

Q. Have you ever followed that occupation in Alaska?

A. Well, yes, to some extent. I am working now for new and used cars in Anchorage, 4th and "A," Joe D. Blachard.

Q. That is buying and selling?

A. Buying, yes, sir. I have only sold two outside of my own merchandise.

Q. Now, are you acquainted with Marilyn Jean Casey who testified on the stand a few days ago, Mr. Bennett?

A. Yes.

Q. Where did you first meet Miss Casey?

A. In Galveston.

Q. And about when did you meet her?

A. Well, the last time was about the 20th of June, I think, somewhere along in there, 18th to the 20th of June. Around the 18th or 20 of June, 1953. [433]

Q. And who, if anybody, was she with at the time you met here then?

(Testimony of James J. Bennett.)

A. I don't remember for sure, several people.

Q. Did you see Mr. Kehert at that time?

A. Yes.

Q. And how did you, how did you happen to be in Galveston, Mr. Bennett?

A. We were just vacationing there for three or four days.

Q. And you met Miss Casey while you was on that vacation in Galveston? A. Yes.

Q. And do you know whether or not Mr. Kehert had known Miss Casey before?

A. It was my understanding that he had known her before.

Q. And how long did you remain at Galveston on that trip?

A. I think we were in Galveston three days.

Q. And how much of that time were you around with Miss Casey?

A. Well, I only saw Miss Casey the last night I was there.

Q. And the time you were there, did you have any conversation with Miss Casey about your coming to Alaska? A. I did not.

Q. You know whether Mr. Kehert had any conversation with Miss Casey about coming to [434] Alaska? A. I do not.

Q. You heard none anyway?

A. I heard none.

Q. And then when you left Galveston, why where did you go? A. To Odessa.

(Testimony of James J. Bennett.)

Q. And who was in the car with you when you went back to Odessa?

A. Mr. Kehert and Miss Casey.

Q. And how did Miss Casey happen to be going back to Odessa with you?

A. Well, I don't know that.

Q. And after you got to Odessa, did you have any conversation with Miss Casey in regard to coming to Alaska?

A. Well, there was conversation. She wanted to go along. She had the money to pay her part of the expenses.

Q. And at that time was any conversation had regarding her entering into prostitution in Alaska?

A. None.

Q. And were you coming back to Alaska at that time to resume your business at Anchorage?

A. I was going back to Anchorage to drive cab.

Q. And you had a car of your own, did you?

A. I did.

Q. That you were going to drive back?

A. Yes, sir. [435]

Q. What was the make of that car?

A. It was a 1951 Cadillac.

Q. And was your wife going to come back to Alaska with you? A. Yes.

Q. What kind of a car, if any, did she have?

A. 1953 Mercury.

Q. And what kind of a car did Mr. Kehert have?

A. 1953 Buick.

Q. And after you got back to Odessa how long

(Testimony of James J. Bennett.)

did you remain there before you left Odessa for Alaska?

A. Overnight. That afternoon and night.

Q. Now, calling your attention to the afternoon of the day prior to your leaving Odessa, did you see a man named Wright who testified on the stand here?

A. I did not.

Q. And when had been the last time that you saw Mr. Wright?

A. It had been several days. He had been by to get me to call Ft. Worth to finance a car for him. The bank had taken over everything he had and closed him out there. He didn't even have an automobile to drive to town.

Q. Now, Mr. Bennett, you was in the court room when Mr. Wright testified here day before yesterday?

A. I was.

Q. And you heard his testimony regarding a visit he made to your apartment in Arrowhead Apartments, I believe? [436]

A. I did hear that.

Q. And at the time he stated that Mr. Kehert was present at your apartment?

A. He did state that.

Q. Was Mr. Kehert present in the apartment?

A. No.

Q. Did you see a laundry truck drive up to in front of your apartment?

A. I did. That afternoon it was a cleaner's truck.

(Testimony of James J. Bennett.)

Q. Cleaner's truck, and who was driving that cleaner's truck?

A. Max Hallmark that owns the Rainbow Cleaners and Laundry Service.

Q. And did he own the company that owned the car?

A. Yes, sir. They own three companies there.

Q. And did he come into your apartment?

A. He delivered some clothes to the back door, yes, sir.

Q. And did you see at any time Mr. Kehert drive a laundry truck up to your——

A. No, sir, Mr. Kehert never came in any laundry truck.

Q. So Mr. Wright's statement then that Mr. Kehert drove the laundry truck when he came in was an untruth then? A. It was untrue.

Q. And in fact was Mr. Kehert in Texas on the 18th of May, as Mr. Wright testified to?

A. No, Mr. Kehert was in Anchorage on the 18th of May. Mr. Kehert never got to Texas until June 3rd or 4th. [437]

Q. And how did he arrive in Texas?

A. He came by plane until he bought a car.

Q. After you heard Mr. Wright's statement about your leaving Odessa in a hurry. You have any information, Mr. Bennett, that the Texas Rangers were after you? A. I did not.

Q. Did you know there were Texas Rangers at Odessa? A. I know them all.

(Testimony of James J. Bennett.)

Q. And now how long had you known Mr. Wright?

A. Well, a couple of months. I had known him over five or six years as a loan shark around town. He loaned small loans to most all those colored people there.

Q. And did you know of him going into the undercover work for the Narcotics Bureau?

A. Well, I think he made a false statement there. He was a city policeman, hired by the City Manager and the Chief of Police and paid from the City Patrol and I think if they will check that they will find it true.

Q. And when did you first learn that he was working under cover?

A. I think it was on the 4th day of April, 1953, that he had been hired. He had been hired the night before.

Q. And then his statement that you did not know that he was an undercover agent until the night before you left Texas was incorrect then?

A. It was very incorrect, yes. [438]

Q. What was Mr.—do you know Mr. Wright's general reputation for truth and veracity in the community in which he lives?

A. Yes.

Q. And what is his reputation for truth and veracity.

A. Well, it is pretty bad among the people that I know, and I know most all of them there.

Q. You lived at Odessa for quite some time, have, you, Mr. Bennett?

(Testimony of James J. Bennett.)

A. About twenty years.

Q. And now, when you left Odessa what route did you take coming back to Fairbanks?

A. 287.

Q. And where did you go to on Route 287?

A. Well, there was some smaller highways, I guess you might call it. The main thoroughfare, I don't remember the number, but I always cut across, get on 287 and then go right to the Canadian Customs that way. That is about the shortest route.

Q. Where did you stop the first night?

A. Denver, Colorado.

Q. And what hotel did you stop at?

A. The Royal.

Q. And how many rooms did you reserve there?

A. Two.

Q. And do you know where Mr. Kehert stopped? [439]

A. Not exactly, I don't know. I wasn't in his cottage. It was over on the other side of town on the highway. It was on the main highway.

Q. And how long did you remain in Denver?

A. Well, I would say probably around sixteen hours, I suppose. We got in there, stayed overnight and left the next day.

Q. About what time did you get there?

A. I don't remember. It was in the afternoon.

Q. Well then these rooms, these two rooms you got, was one of them for you and your wife?

A. One for my wife and myself.

Q. And who was the other one for?

(Testimony of James J. Bennett.)

A. For Miss Crosby and Miss Ward.

Q. And then after the next day did you have your car serviced?

A. I had my two cars serviced that day, that afternoon.

Q. The afternoon that you got in?

A. Yes.

Q. And when did you leave Denver?

A. Around noon the next day, or a little after.

Q. And which way did you go then?

A. Cheyenne.

Q. Did you stop any length of time in Cheyenne? A. No.

Q. Where was the next place that you stopped overnight? [440]

A. Washington, I think. I'm not sure.

Q. Do you remember what town in Washington?

A. Spokane, I think. I wouldn't be positive.

Q. And then after you left Spokane where did you hit the Canadian border?

A. Osoyoos, or something like that.

Q. And you went through the Canadian Customs at that place? A. I did.

Q. And did you and your party make any attempt to conceal the fact that you weren't together?

A. Not at all. I told the agent checking my car that the red car belonged to me, give him the papers on both of them. My wife took the papers on the coupe and the lady checked her and the guy checked me.

Q. And then you went on after you left there,

(Testimony of James J. Bennett.)

you went on, proceeded up to Canada to the point at Snag? A. Yes.

Q. How many days did it take you to drive up?

A. Approximately six, I think.

Q. And you stopped along the different places on the highway? A. Yes.

Q. And taking six days you took the, took it fairly easy coming up through Canada?

A. Yes, sir, the road is pretty bad through there. [441]

Q. And you stopped, taking pictures?

A. Sure did.

Q. Now, who did Marilyn Casey ride with?

A. Well, she rode with the girls part of the time, and with Kehert part of the time. Everybody. It was a long, tiresome trip and we were just more or less visiting to break the monotony of the trip.

Q. Kind of move around from car to car; is that right? A. Yes, sir.

Q. And you got to where was the control point when you come into Alaska, from Canada?

A. Tok.

Q. At Tok, do you know how far that is from the Canadian border?

A. I don't. It is about a hundred miles, a hundred eighty, something like that. I don't know for sure. I have been through there several times, but I don't remember.

Q. Well, now after you got past the customs office at Tok you came on into Fairbanks?

A. Yes.

(Testimony of James J. Bennett.)

Q. And what did you do when you came to Fairbanks?

A. Went to the Fifth Avenue Hotel, got a place to stay.

Q. And had you ever stopped there before?

A. No.

Q. And you got two rooms at the Fifth Avenue, did you? A. I did.

Q. One for yourself and wife? [442]

A. That's right.

Q. And the other for the two girls that were with you? A. Yes.

Q. And do you know where Miss Casey went?

A. No, I do not. I didn't see Miss Casey after that until I seen her in the jail.

Q. And then you had no further, no interest in Miss Casey after she once got here?

A. None whatsoever.

Q. And after you came into Fairbanks then, what did you do, Mr. Bennett?

A. I went to see two people that own cab here about getting my car on, and they weren't using any lease cars, and I was making preparations to go to Anchorage the day before we got arrested.

Q. And where were you arrested, Mr. Bennett?

A. At the Fifth Avenue Annex.

Q. And who made the arrest?

A. Mr. McRoberts came in there and got us first and took us to the jail and booked——

Q. By us, who do you mean?

(Testimony of James J. Bennett.)

A. Mrs. Bennett and Miss Ward.

Q. And yourself? A. Yes.

Q. And where did he take you?

A. He took us to the Federal jail. [443]

Q. And what did he do when he got you there?

A. They booked us in; after they locked the girls up, he said, "Just a minute, don't lock Bennett up. I am going to take him back to the room a minute."

Q. And then what did he do?

A. He took me back down to the room and sat down, and said, "I think the FBI will be here for you in a few minutes. I understand they have a warrant for you." While we were in the jail there he made a call. I don't know who the call was made to.

Q. So he took you back so the FBI could arrest you while you were already in custody then, Mr. Bennett? A. Yes, sir.

Q. And when the FBI came, it was just you and Mr. McRoberts present in the room. A. Yes.

Q. Was that Ted McRoberts or Mike McRoberts?

A. Yes, Ted McRoberts, the guy whose hair stands up straight.

Q. Was he scared you think, make his hair stand up? A. I don't know about that.

Q. So then the FBI came in; what did they do?

A. They knocked on the door, pushed it open real quick, jumped inside. They said, they showed their book, who they were and I told them to come on in. I didn't have anything to hide.

(Testimony of James J. Bennett.)

Q. And then what did they proceed to do? [444]

A. Well, they pushed me over against the wall. One of them stood there while the other one shook me down.

Q. And then what did they do?

A. They read the Warrant to me and handed it to me, and I read it. I said, "Well, let's go."

Q. Did they proceed to search the room?

A. They did.

Q. And during this search what did they secure, any articles of yours?

A. Yes. I had receipts for courtesy card gasoline purchase laying on the chest of drawers up on top along with an address book, a 380 automatic which wasn't loaded or didn't have any clip in it, and they took those and my wife and the other girls had washed out some clothes in the bathtub in my room and were hanging up and McRoberts gathered up the wet clothes along with the dry ones, also a bundle of dirty clothes that was laying in the corner and took them all down. He still has them till now.

Q. Still got those clothes?

A. Still have them.

Q. Mr. Bennett, did you ever get a receipt from either Mr. McRoberts or the FBI for the things they took out of that room?

A. I never got no receipt for them.

Q. They took the guns?

A. Two guns, I had a rifle there, .22 rifle. It wasn't loaded either, but they took it anyhow. [445]

(Testimony of James J. Bennett.)

Q. And did they ever give the guns back?

A. Finally Mr. Miller got the guns back for me, yes, sir.

Q. And what were you charged with at that time, Mr. Bennett, in that Warrant that was served on you?

A. It said aiding and abetting, aiding and abetting.

Q. Did it say aiding and abetting what?

A. I don't remember that. I don't never talk to them people very much. He had a Warrant. I told him, "Let's go."

Q. So you got no receipt for the things, did you?

A. No receipts, no, sir.

Q. And have you ever got your, any of the articles other than the two guns back?

A. Not anything but the two guns.

Q. And the girls have not got their clothes back?

A. They did not get their clothes back.

Q. And there was a preliminary hearing, was a preliminary hearing ever held on the charge against you, Mr. Bennett?

A. Yes, sir.

Q. And were you present at that preliminary hearing?

A. No, sir.

Q. You were not?

A. I was present at the first one.

Q. And what was the outcome of that preliminary hearing?

Mr. Stevens: I object to that. If he wasn't present it would be hearsay, your Honor. [446]

The Court: Objection sustained.

(Testimony of James J. Bennett.)

Q. (By Mr. Taylor): You say you were present at the first preliminary hearing?

A. I was present at the first preliminary hearing, and they dismissed it at the last preliminary hearing.

Mr. Stevens: I move to strike that, your Honor, unless he shows the proper foundation.

The Court: It may be stricken.

Q. Well, was it continued at the first hearing?

A. Yes, it was continued thirty days, I believe it was.

Q. And you did not appear for the next hearing then? A. No.

Q. You do not know that the charge was dismissed then? A. Yes, it was dismissed.

Q. And was your bond exonerated?

A. Yes.

Mr. Stevens: I object to this, your Honor. He is going into hearsay testimony, and Mr. Taylor realizes that it is hearsay testimony. I have objected twice. I ask your Honor to instruct Mr. Taylor to ask his witness questions which will not go into hearsay matters. Mr. Bennett was not present at the preliminary hearing and he does not know of his own knowledge what went on down there.

The Court: Objection is sustained. Consider yourself informed to refrain from those hearsay questions. [447]

Mr. Taylor: Yes, your Honor. I have asked that question, the fact that being a defendant I felt,

(Testimony of James J. Bennett.)

your Honor, that he should know whether he had been discharged and his bondsmen exonerated. That is the only thing I was trying to bring out.

Q. (By Mr. Taylor): Mr. Bennett then, do you know whether or not your bondsmen were exonerated on the charge upon which you were arrested?

A. They were. I was notified by my bondsman that his bond had been returned, that he had been exonerated from the bond.

Mr. Stevens: Your Honor, what is that but hearsay? Now Mr. Taylor knows that he did not know that of his own knowledge. It was told to him by someone else. Mr. Taylor persists on going into hearsay evidence.

The Court: Not necessarily. He might have gotten the information from someone else.

Mr. Stevens: That is hearsay, your Honor. He did get the notice.

The Court: That is hearsay, yes.

Q. (By Mr. Taylor): Then after that, Mr. Bennett, did you, when was the first knowledge that this matter had been brought up again?

A. A letter from your office that they returned a secret indictment, return to the Territory. That was in [448] November, the first of December, last of November, I believe it was.

Q. And then pursuant to that letter that you received you returned to the Territory?

A. I did return to the Territory. I figured it would be cheaper to handle it, me being here than it would be outside, and then have to come back.

(Testimony of James J. Bennett.)

Q. You had in the meantime, had you posted another bond? A. Since then?

Q. No, at the time that you found out that you were to be arraigned, that an indictment had been returned against you, did you post another?

A. I made preparations to post a bond.

Q. And I believe that you were arraigned at Anchorage, Alaska, were you? A. Correct.

Q. Now, Mr. Bennett, at any time from the time that you met Miss Casey at Galveston, did you have any conversation with Miss Casey regarding her coming to Alaska for the purpose of practicing prostitution? A. I did not.

Q. And did Miss Casey at any time inform you that she wanted to come to Alaska for the purpose of prostitution, for purpose of going into prostitution? A. She did not. [449]

Q. Did you have any talks with her as to what line of business she expected to go into in Alaska?

A. She was talking about she was a dancer, going to work at some Squadron Club or the Bell and Whistle or something like that. I don't know, some dancing establishment, B-girl or something like that.

Q. And that was—was this the extent of her intentions so far as you know as to what she expected to do in Alaska?

A. So far as I know, yes. I had very little conversation with Miss Casey.

Q. Did she ride in the car with you at any time?

(Testimony of James J. Bennett.)

A. Not at no time was she ever in my car.

Q. And did you ever have a private conversation with Miss Casey or was it in the presence of the group?

A. I never had no private conversation with Miss Casey at no time.

Q. And while the group was together, Mr. Bennett, Miss Casey and any of the group that you was with, your wife or Norma Crosby or Carolyn Ward or Mr. Kehert, any, have any conversation with Miss Casey regarding her coming to Alaska to practice prostitution? A. Never.

Q. Did you hear any talk about her going into the Squadron Club or the Swing and Whistle or the——

A. The conversations I heard her talking was dancing.

Q. And was that, do you know whether she had been a dancer before or not? [450]

A. I understand she had been dancing, doing some shows in some of those swing clubs in Galveston.

Q. Now, when you left Galveston with Miss Casey, did you pick her up with a car?

A. I did not.

Q. And who picked her up, do you know?

A. I don't know. I had been terribly drunk the night before and they came by the room and picked me up.

Q. So you was the one that needed picking up; is that right?

(Testimony of James J. Bennett.)

A. Yes, sir. I lay in the back seat pretty sick all the way home.

Q. Not talking about much of anything; is that right? A. No, sir, I was pretty sick.

Mr. Taylor: You may take the witness.

The Clerk: Government's Identification No. 56 and Government's Identification No. 57.

(Criminal Complaint No. 9733, USA v. Kehert and Bennett, was marked Government's Identification No. 56; Warrant No. 9733, USA v. Wesley Kurt Williams and James J. Bennett was marked Government's Identification No. 57.)

Cross-Examination

By Mr. Stevens:

Q. Mr. Bennett, this is Government's Identification No. 57; have you seen that document before? [451] A. Not to my recollection.

Q. Didn't you say you read the warrant that was given to you?

A. Yeah, I said that the man handed me a warrant.

Q. And it was on the 6th day of July, 1953?

A. I think so.

Q. And the warrant specifically said something about aiding and abetting, did it?

A. I don't know. That is what he told me.

Q. I thought you said you read it?

A. I looked it over, the warrant, and it had my name on it. I handed it back to him and said,

(Testimony of James J. Bennett.)

“Let’s go.” It had my name on it, so I didn’t go no further.

Q. It was read to you, was it not?

A. I don’t remember.

Q. I thought you just said it was?

A. He read something off to me. He said he had a warrant for my arrest.

Q. Who told you something said aiding and abetting on there? Mr. Taylor? A. Harkabus.

Q. You read it at the time?

A. I read a few words of it, handed it back to him, and said, “Let’s go.”

Q. This is Government’s Identification 56, Mr. Bennett, was that ever read to you? [452]

A. Not to my recollection.

Q. Were you ever arraigned before Mrs. Nordale downstairs on the 7th day of July, 1953?

A. I was.

Q. And was the charge read to you at that time?

A. There was some charges read to me.

Q. Anything said about aiding and abetting at that time, Mr. Bennett?

A. I don’t remember.

Q. Where did you get the aiding and abetting, Mr. Bennett?

A. That is what was on the first warrant. That is what they said when they come in the door.

Q. You were being arrested for aiding and abetting, who were you aiding and abetting?

A. I don’t remember. I looked at the warrant and it had my name on it.

(Testimony of James J. Bennett.)

Q. Is your memory as good regarding the warrant as what happened in Texas?

A. I have a pretty good memory.

Q. Is your memory pretty good on where Wesley Kehert was on the 4th, 5th, and 6th of June, 1953?

A. I don't know.

Q. But you saw him on the 3rd?

A. I didn't say I seen him on the 3rd. He left up here on the 3rd. [453]

Q. When did you get to Texas?

A. He got there about the 3rd or 4th.

Q. When did you see him.

A. I didn't see him for a couple of weeks.

Q. Where was he? A. I don't remember.

Q. Where was he on the other end of the phone when you talked to him?

A. I don't remember.

Q. Who called whom; did he call you?

A. He called me, yes.

Q. Did you ever call him? A. No.

Q. So then you don't know where he was?

A. No, I said I didn't know where he called from.

Q. And if he was in Anchorage in June he could have called you from there?

A. He didn't call me from Anchorage.

Q. You sure of that? A. I'm sure.

Q. You been in the business of buying and selling automobiles? A. I have, yes.

Q. Were you in that business down in Anchorage for five years before this?

(Testimony of James J. Bennett.)

A. No, I wasn't. I was driving cab. [454]

Q. I thought you said your business for about five years in and out in Anchorage was buying and selling automobiles?

A. I said my business now in Anchorage, I was buying cars. I said I only sold two and they were mine.

Q. I believe you said you were in Galveston two or three days vacationing?

A. That's right.

Q. Where did you stay, Mr. Bennett?

A. I stayed at a motel out on the beach.

Q. And what was that motel?

A. I'm not sure, but I think it was the Coronado.

Q. Coronado Courts, wasn't it, Mr. Bennett?

A. Courts and motels the same.

Q. And how long did you stay there?

A. Stayed at that place one night, or two nights, I'm not sure.

Q. And where is the other place you stayed in?

A. I stayed over in Ft. Worth the night before I came down there.

Q. I thought you said you stayed in Galveston two or three days?

A. I stayed up one whole day and one whole night up until the next day that I didn't go to the motel.

Q. How many nights were you at a motel in Galveston, Mr. Bennett?

A. Approximately two, but I only stayed there one piece of one night. [455]

(Testimony of James J. Bennett.)

Q. And whose car did you have?

A. We were in Mr. Kehert's car.

Q. Did you make any phone calls from there?

A. Yes, I made a phone call. I called home.

Q. Where else did you call?

A. I don't remember if I called anywhere else.
I think I only made one phone call.

Q. Where did Mr. Kehert call?

A. I don't know nothing about Mr. Kehert's business.

Q. Weren't you there with him?

A. Sometimes I was, and sometimes I wasn't.

Q. You travel with him for three days' vacationing and you don't know anything about his business?

A. I tend to my business and let everybody else do the same.

Q. Were you on business or vacationing?

A. I said I was vacationing down in the bars, drinking them up.

Q. Then when Miss Casey went back with you, you didn't know how she got there; is that right?

A. I didn't care to know.

Q. Well, when was the first time you found out she was going with you to Alaska?

A. When they came by the room to pick me up. I was too sick to get up and go. I got up and laid down in the back seat of the car and vomited nearly all the way to Odessa. [456]

Q. Did you have have any connection with prostitution in Odessa, Texas, Mr. Bennett?

(Testimony of James J. Bennett.)

A. I had no connection with it, no.

Q. Well, did you know that Miss Crosby and your wife were engaging in prostitution in Odessa, Texas?

A. I did not.

Q. That's not true then; is that right?

A. I don't know anything about it. I was in and out. I was going to Chicago and then I was on the road with automobiles most all of the time.

Q. With automobiles, Mr. Bennett?

A. Yes, with automobiles.

Q. Anyone in those automobiles with you?

A. Well, several people would be picked up to drive them through.

Q. Again my question is, when was the first time you found out Miss Casey was going to Alaska with you?

Mr. Taylor: Just a moment, your Honor. It has already been answered.

The Court: He may answer again.

A. First time I seen Miss Casey when they came by the room. First time I knew anything about any Alaska business was in Odessa.

Q. (By Mr. Stevens): And who was there then?

A. I don't remember everybody that was [457] there.

Q. Was your wife there?

A. I couldn't say truthfully.

Q. Was Mr. Kehert there?

A. I don't know for sure.

Q. You just don't know anything for sure then, do you, Mr. Bennett?

A. I don't know that.

(Testimony of James J. Bennett.)

Q. Who owned the Mercury, Mr. Bennett?

A. The title to it was in my wife's name.

Q. And where was the address on the title; what was the address on the title?

A. I don't know whether it was an Irvin address or an Odessa address. We owned a home in both places.

Q. Do you own a home in Waxahachie?

A. No, I bought the car down there.

Q. Did you register it down there?

A. Yes, the dealer has to register a car in the county it comes out of in order to replace it.

Q. Did you show that your address was down there when you bought it down there?

A. No. The way that was, the Motor Investment paid off for the car, and they billed the car out. The invoice was to me, and the title was put in her name.

Q. And where was the address on the title?

A. I don't remember.

Q. You bought it, didn't you? [458]

A. I paid cash for it.

Q. Did you buy it? A. Yes, I did.

Q. You put it in your wife's name?

A. I sure did.

Q. You are the person who filled out the paper?

A. The clerk in the Lincoln-Mercury office filled out the papers.

Q. Did you tell him the address?

A. He had the address. I bought a number of automobiles there.

(Testimony of James J. Bennett.)

Q. The title, your wife's address for the title, did you tell him that?

A. I told him to put the title in my wife's name.

Q. What is your address in Irving, Texas, Mr. Bennett? A. Story Road.

Q. And you lived in the Arrowhead Motel in Odessa? A. I lived in the Arrowhead Motel.

Q. And where else in Odessa?

A. 505 North Tom Green Street.

Q. What is that? A. That is my home.

Q. And did you ever live in the Highway 80 Courts? A. I never did.

Q. Never stayed there in your life?

A. I did. [459]

Q. When did you stay there?

A. I don't remember. I stayed there two or three times.

Q. And did you stay at the Davis Motel?

A. No, I never spent the night at the Davis. I have been there. I had an option to buy the place at the time.

Q. Is the place on Tom Green Street in your name now? A. No, it is not.

Q. Was it in your name when you were living in the Arrowhead Motel? A. No.

Q. It was your home though?

A. It is in my father's name.

Q. Where did your father live at that time?

A. He lived in the place.

Q. Did he ever stay at the motel?

A. No, he did not.

(Testimony of James J. Bennett.)

Q. Did your father help you pack up when you left the motel? A. He did not.

Q. He didn't help you at all?

A. My Cadillac was over at his house, and he brought it to me.

Q. Did he drive a little ways out on the road with you? A. He brought my car out to me.

Q. And where were you?

A. I was at the Moonlight Bar. [460]

Q. I thought you were at the motel?

A. Not after I left town I wasn't.

Q. Wasn't it a fact that your father had one of your cars just before you left the motel?

A. My Cadillac stayed over at my mother's house all the time.

Q. And you called your father and asked him to bring it to you at the motel?

A. No, my father brought my car out to the Moonlight Bar. It is a whiskey store and bar twelve miles out of town.

Q. Did you father help you pack the cars?

A. He did not.

Q. Did your father put part of the luggage in your car?

A. He didn't put any luggage in my car.

Q. Did you not drive your father's old Buick out to where the Mercury was parked on a road twelve miles from town?

A. I had my father's Buick over at my house.

Q. Where was the red Mercury when you started out on this trip to Alaska?

(Testimony of James J. Bennett.)

A. It was at home.

Q. Was that the motel? I asked you was the red Mercury at the motel when you left the motel?

A. I don't remember.

Mr. Taylor: I believe he should make it a little more explicit, your Honor, ask him about a motel. There has been about three motels that has got into this conversation, and we would like to know which one the District Attorney is referring to. [461]

Q. (By Mr. Stevens): I am referring to the Arrowhead Motel. That is where you lived, wasn't it, Mr. Bennett? Didn't I ask you if you didn't call your father and ask him to bring your Cadillac over to your motel, the Arrowhead Motel?

A. My father brought my Cadillac out to the Moonlight Bar, as I said before.

Q. And where was the red Mercury at that time?

A. I don't know where it was. My wife had it.

Q. Where was the red Mercury when you started off on the trip? A. It was along with us.

Q. Where was it?

A. It was out at the Moonlight Bar.

Q. I thought you said you didn't know where it was? A. At the Moonlight Bar.

Q. I thought you said you didn't know where it was?

A. When I started on the trip it was.

Q. Did you ever go back to the motel to pack your things?

A. My things were packed before I left.

(Testimony of James J. Bennett.)

Q. You were in pretty much of a rush to leave any moment, weren't you?

A. No; I was in a rush to go back to Tennessee after some cars.

Q. Did you know that Norma Crosby was arrested on the 19th of June, 1953? [462]

A. I heard about it.

Q. Were you not in Odessa on the 19th of June?

A. I don't know. I wasn't there when they got arrested. I was out of town.

Q. When did you get back to town on that trip then?

A. Two or three days after that. The day before I left for Alaska.

Q. The 19th is the day you left for Alaska, Mr. Bennett?

A. They was home when I got there, wasn't in no jail then.

Q. What was your room number in the Arrowhead Motel? A. 36.

Q. Did you ever stay in room 27?

A. I did not.

Q. Who stayed in room 27?

A. I don't know for sure.

Q. Well, Mr. Bennett, was your wife arrested on the 19th of June, 1953?

A. I don't know. I didn't see her arrested. She was at home when I got there.

Q. You had no knowledge of it?

A. According to law it would all be hearsay.

(Testimony of James J. Bennett.)

Q. You were pretty free with hearsay a moment ago, Mr. Bennett. Let's have a little now.

A. She wasn't in jail when I got home.

Q. Did you hear she had been put in jail? [463]

Mr. Taylor: We object, your Honor, on the ground it would be hearsay.

The Court: Objection overruled.

Mr. Stevens: I am glad you understand the rule.

Q. (By Mr. Stevens): Now, Mr. Wright, how long did you know Mr. Wright?

Mr. Taylor: Did you call Mr. Bennett, Mr. Wright?

Mr. Stevens: No, I said, and Mr. Wright.

A. I had known Mr. Wright quite some time.

Q. (By Mr. Stevens): And you say you knew the day after he was appointed as an undercover agent for the Narcotics Bureau, you knew it; is that right? A. Yes.

Q. Who told you?

A. The Chief of Detectives on the city told me first that he had applied for the job.

Q. You are pretty much in with those people then, are you?

A. I was raised right there on the streets, and I have been there longer than any of them have.

Q. And is it the habit of people in Odessa to tell just anyone who are the undercover agents?

Mr. Taylor: Your Honor, I think it is incompetent, irrelevant and immaterial, calling for a conclusion of this witness.

The Court: I sustain the objection. [464]

(Testimony of James J. Bennett.)

Q. (By Mr. Stevens): Were you with Mr. Wright on the night of May 15th at the Mink Club in Amarillo?

A. I sure was. I didn't go there with him, but I met him there.

Q. That was Mr. Wright's testimony, was it not?

A. I don't remember what his testimony was, but I remember he was there and I was there.

Q. And Agent Pacinni?

A. Yeah, and I knew who he was.

Q. Who was the girl that was with you?

A. Carrol Ward.

Q. Was that the same Carrol Ward that came up here with you? A. Yes.

Q. And what did she do in Odessa, Mr. Bennett?

A. She didn't do anything.

Q. Where did she live? A. I don't know.

Q. Did she ever stay at the Highway 80 Motel?

A. Not to my knowledge.

Q. Where did she stay just before you brought her up here, Mr. Bennett?

A. She was staying in an apartment. I don't know where.

Q. Where did she stay right after you got up here, Mr. Bennett? [465]

A. Over at the Fifth Avenue Annex.

Q. Right with you? A. Not with me.

Q. You paid for the room?

A. They had their room, their own money. I took care of the bills.

(Testimony of James J. Bennett.)

Q. You paid for the bills coming up, too, Mr. Bennett?

A. They was pooling the money. It wasn't all my money.

Q. How much money did you have when you were arrested, Mr. Bennett?

Mr. Taylor: Your Honor, we are going to object to the question as incompetent, irrelevant and immaterial, has no bearing on the issues.

The Court: Objection overruled.

Q. (By Mr. Stevens): I think I had about six or eight hundred dollars in my pocket.

Q. And how much did Miss Crosby have, do you know? A. Just some change, perhaps.

Q. And how much did Betty Bennett have?

A. I don't know. I don't ever look in the girls' pocket.

Q. Do you know how much Miss Casey had?

A. I don't know. I had nothing to do with Miss Casey whatever. [466]

Q. You had this contempt for Mr. Wright very long, Mr. Bennett? A. Had what?

Q. This contempt that you express here today, have you had that contempt for Mr. Wright for a long period of time?

A. I don't know what you mean by contempt.

Q. You called him a loan shark, I believe, the same words Mr. Taylor used the other day?

A. That or a little less, yes.

Q. And did you think you were on a friendly

(Testimony of James J. Bennett.)

basis with Mr. Wright all during the time down in Odessa?

A. I knew what basis I was on with Mr. Wright.

Q. And did you see Mr. Wright from time to time? A. Several times.

Q. And did you loan him your car?

A. Several times.

Q. And did he come to your place there in the Arrowhead Motel?

A. A few times; three times, I think.

Q. And what was the purpose of his coming to see you, Mr. Bennett?

A. To see what he could find out.

Q. Do you know Mr. Brown, the colored porter?

A. Yes; I saw his brother or the boy that he was working for. I wouldn't say it was his brother, sold him an automobile. [467]

Q. But did you know him down there?

A. Personally? I knew him when I seen him. I didn't know his name was Brown. Walter was all I knew.

Q. Did you see him, did you ever see him at the Highway 80 Motel acting as a porter?

A. I did not.

Q. Then Mr. Brown is also not telling the truth to this court?

Mr. Taylor: Just a moment, your Honor. I am going to object to the question upon the grounds that Mr. Brown, Mr. Brown might see Mr. Bennett but Mr. Bennett might not see Mr. Brown.

(Testimony of James J. Bennett.)

Mr. Stevens: Mr. Brown testified he talked to Mr. Bennett.

The Court: Objection overruled.

A. Mr. Brown never talked to me.

Q. (By Mr. Stevens): How long were you in Denver? A. Over night.

Mr. Taylor: Could we have the recess, your Honor, at this time?

The Court: Yes; ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 11:00 a.m., the court took a recess until 11:13 a.m., at which time it reconvened and the trial of this cause was [468] resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

Proceed, your Honor?

The Court: Proceed, yes.

JAMES J. BENNETT

the witness on the stand at the time the recess was taken, resumed the stand for further

Cross-Examination

By Mr. Stevens:

Q. Mr. Bennett, did you know during all the time that you were seeing Mr. Wright that he was a Narcotics Agent; is that your testimony?

A. I knew who he was. He was a city policeman

(Testimony of James J. Bennett.)

working with a Narcotics Agent.

Q. He was a Special Agent for the Bureau of Narcotics, that was his testimony; do you deny that?

A. I know his testimony. I also know who he was hired by, when he was hired, and the three people that knew he was hired.

Q. Yet he was supposed to be an undercover man, was he not, Mr. Bennett?

A. That's what he thought.

Q. Tell me, Mr. Bennett, have you heard anything about the cases that have come out as a result of Mr. Wright's work?

A. I have heard some of it, yes. [469]

Q. And is it true that Mr. Wright was a very effective undercover man in Odessa?

Mr. Taylor: Just a moment. That would be hearsay, your Honor. We are going to object.

The Court: I will sustain the objection.

Q. (By Mr. Stevens): Now, Mr. Bennett, you were at the Mink Club on what day in May?

A. I don't know what day it was.

Q. Well, how, then, do you know then for sure that Mr. Kehert wasn't in Odessa when you returned that day; you don't remember whether it was May or June you were in the Mink Club, do you?

A. It was in May.

Q. You sure of that now?

A. I'm not sure, no.

Q. Well, then, you don't know for sure whether Mr. Kehert was there when you got back or not, do you?

(Testimony of James J. Bennett.)

A. I know Kehert was in Anchorage in May.

Q. Do you know whether Kehert was in Odessa when you returned from the Mink Club?

A. He wasn't around my place.

Q. And when you came back from the Mink Club you didn't see him that night?

A. I did not.

Q. Was Miss Ward there?

A. Miss Ward was with me. [470]

Q. She came back with you, did she not?

A. I think Miss Ward drove a car back for me that I bought at the auction in Lubbock.

Q. And was Norma Crosby around your apartment that night? A. Not when I got back.

Q. Well, that evening?

A. Not to my recollection.

Q. And was your wife around there that evening?

A. I don't remember if she was there or over to my mother's.

Q. Mr. Bennett, you were coming back to Alaska to drive cab in Anchorage?

A. I was coming back to Alaska to drive my cab, yes.

Q. And you owned a home in Irving, Texas?

A. I do.

Q. And you seemingly have a fairly profitable business of buying cars?

A. Automobile business was off at that time. Everybody was getting rid of stock they had on hand.

(Testimony of James J. Bennett.)

Q. You paid cash for the Mercury, did you not, Mr. Bennett?

A. I paid cash for it, but I got the cash in other places.

Q. What other places?

A. Well, the man that I worked for, you might say my [471] car is more or less a company car. It was in my name. I paid the payments on it; when I used it for business I got mileage on it.

Q. This is in particular reference to the 1953 Mercury which you had in your wife's name?

A. Correct. Motor Investment, 808 Seventh Street, Ft. Worth, paid for it with a check.

Q. And where did you sell that?

A. I sold it here in Fairbanks.

Q. Whom did you sell it to? A. Bramlett.

Q. Who paid whom on that?

A. Mrs. Bramlett paid my wife. They are four months behind on it at the present time and going to have to pick the car up, four months tomorrow.

Q. Isn't it true that Mr. Bramlett paid you the first installment on that car?

A. Mr. Bramlett didn't pay me anything. His wife paid my wife.

Q. And was the car all paid for when you transferred it?

A. No; it was not. I had permission to dispose of it as I did.

Q. But you paid for it in cash?

A. With a check from Motor Investment Com-

(Testimony of James J. Bennett.)

pany made out to me. Then I put a loan against the car at Motor Investment.

Q. Wasn't it a fact you put a loan against all your cars to make the trip to Alaska? [472]

A. I did not. I keep, I already had a loan against my Cadillac. I keep a loan against my cars all the time, all they will stand.

Q. They didn't ask you to buy them?

A. They did not.

Q. Wasn't that your testimony, you bought them for the man you worked for?

A. No, I did not. I said I had bought a car. The man I worked for finances my cars, whereas I don't have any of my own money tied up in it.

Q. Which car did you consider your car at that time? A. Cadillac.

Q. Where is the Cadillac?

A. I have it in Anchorage, Anchorage Paint and Body Shop right now.

Q. Where is the Buick?

A. I do not know.

Q. You said you didn't see Miss Casey after you came to Alaska and checked into the Fifth Avenue Hotel? A. I did not.

Q. When you came to Alaska did you stay in Fairbanks the night you came here; did you stay here that night and permanently thereafter for awhile?

A. I don't remember. I came in one day. I don't know if I went back to Tok that day or if I went back the next day. I don't remember. [473]

(Testimony of James J. Bennett.)

Q. You went back to 40 Miles, didn't you, Mr. Bennett?

A. That is below Tok, yes, started to go back out.

Q. That's right. You went all the way to 40 Mile and stayed there about three days, did you not?

A. I did not. I stayed there one day and came back the next.

Q. Came back up here?

A. Came back right here.

Q. Did you know Ace Burney that was in here yesterday?

A. I did not know him at that time. I do know him now.

Q. Never saw him before?

A. Before when?

Q. Yesterday. A. Yes.

Q. Where did you see him?

A. Anchorage.

Q. How long ago?

A. Oh, possibly three or four months ago.

Q. Did you talk this case over with him, Mr. Bennett?

A. No, I didn't. I never talked to that man about anything. I just knew when he was driving a cab for.

Q. For whom?

A. Smith, Smitty or something like that.

Q. Is that a city cab? A. No.

Q. Is it a cab operated in the city?

A. They unload in the city. [474]

(Testimony of James J. Bennett.)

Q. Are they licensed in the city?

A. I don't know. My two aren't.

Q. Now, you were in Denver how long?

A. Got in there one afternoon, left the next day.

Q. Did Mr. Kehert pick up a money order while you were still in Denver?

A. As far as I know, yes.

Q. And did you all leave Denver at the same time? A. Approximately.

Q. You saw Mr. Artie Reynolds here from Denver, the service station operator? A. Yes, sir.

Q. Did you ever see him before?

A. Yes, sir.

Q. You bought some gas from him?

A. Yes, sir.

Q. Was this the slip you signed when you bought gas from him?

A. It is just like the one I signed.

Q. Well, it has W. W. Bennett's card number on there, doesn't it? A. Yes.

Q. And someone signed W. W. Bennett to it, didn't they? A. I signed a lot of them.

Q. You signed quite a few of them, didn't you?

A. Yes, sir; I have a power of attorney to sign his name to bank draft, courtesy card, hotel credit card. [475]

Q. The man just stamped the credit card down, didn't he?

A. The credit card has a piece of metal on it that lays in his stamp. The piece you see transferred to

(Testimony of James J. Bennett.)

that paper comes off the metal slip and I signed it below.

Q. And the date and the place you buy the gas from is stamped, right?

A. Yes. Some gas stations have a stamp, some don't. Some of them have to write it out in handwriting.

Q. This says the 20th of June, 1953?

A. Yes.

Q. Do you know what day the 20th of June, 1953, was on? A. It was on the 20th of June.

Q. I mean, was it Saturday; was it Tuesday?

A. I don't know.

Q. Would you like to know before I ask you a question about it, Mr. Bennett?

A. I don't see where it would be necessary.

Q. Well, this calendar shows it was on Saturday, just for your information; is that right?

A. That is what the calendar shows.

Q. Well, we won't dispute the calendar, will we?

A. No; I don't think so.

Q. Then this is your registration card from Denver? A. That is my handwriting.

Q. Shows you actually stayed there on the 21st, doesn't it, which would be a Sunday; is that [476] right?

A. That is what it has on it. I don't know nothing about the days, the dates. I know we stayed in Denver one night, got in there one afternoon and left the next day.

Q. You are sure of that? A. Yes.

(Testimony of James J. Bennett.)

Q. You are just as positive about that as you are everything else, Mr. Bennett?

A. That is to the best of my recollection.

Q. How come Mr. Kehert picked up his one thousand dollar money order on a Monday morning, on the 22nd? You didn't leave Denver until the 22nd; is that right? A. I don't know.

Q. Would you like to examine this?

A. I seen it before.

Q. You have seen it before. What exhibit is this, Mr. Hall, do you know? Government's Exhibit "A." You have seen it before?

A. Right here in court.

Q. Well, you know that Mr. Kehert did pick up a money order while you were in town there?

A. I said he did, yeah.

Q. And that is just your testimony in regard to staying in Denver is as truthful as everything else?

A. I said to the best of my remembrance we only spent one night there.

Q. Now, you would like to change it to the best of your memory? You said you stayed there sixteen hours, didn't you? [477]

A. I said sixteen, eighteen hours. Got there one afternoon, left the next afternoon.

Q. The service station shows you got gas on a Saturday, checked in and stayed at the hotel on a Sunday and Mr. Kehert picked up his Western Union telegram and money order on Monday morning, and you were only there sixteen hours. Now,

(Testimony of James J. Bennett.)

Osoyoos, you told the little agent that was in here you saw Mr. Burton?

A. That isn't the agent that checked the belongings in my car.

Q. Oh, it is not? A. It is not.

Q. Then Mr. Burton wasn't telling the truth, either?

A. Mr. Burton didn't tell all the truth. Mr. Burton was in his car down the road ahead of us and followed us for about fifteen miles.

Q. You don't deny he followed you?

A. We did stop.

Q. Were you going over seventy miles an hour, like he said you were?

A. Well, I try to cover that road pretty fast when I get on it.

Q. He wasn't the man that checked you through?

A. He wasn't the man that checked me in. He was in his car.

Q. Now, wait a minute. He didn't testify he was a customs officer? [478]

A. I call them the same thing.

Q. There were two different stations at the Canadian border, are there not?

A. American and Canadian.

Q. There are two different sets of Canadian people, are there not? A. I don't know.

Q. You never talked to Mr. Burton?

A. That man that was here? I never did. He was going home and we went around him.

Q. How did you know he was going home?

(Testimony of James J. Bennett.)

A. Well, I stayed along behind him and passed him again after he pulled into his house and went in. How come I to know he was an officer was he had one of those uniforms.

Q. Everything he told here was the truth except he talked to you?

A. I don't know about that, but he didn't check me through the customs.

Q. Who was with Mr. McRoberts the time he came over to your apartment and picked up the two girls? A. Some highway patrolman.

Q. And was that highway patrolman around when he put you under arrest, Mr. McRoberts?

A. Mr. McRoberts and them boys. McRoberts took us to jail. McRoberts took me back to the room by hisself.

Q. But this highway patrolman was with you when you went over to the jail? [479]

A. I don't remember.

Q. And were you told you were under arrest when you went to jail? A. Yes, sir.

Q. And were you actually started through the booking procedure downstairs?

A. Yes, sir; right at the desk. He took the things out of my pocket and then said, "Just a minute, I'm going to take him back."

Q. Right there? A. Right there.

Q. And where was the highway patrolman then?

A. I don't know about the highway patrolman.

Q. You say Mr. Taylor gave you notice of the

(Testimony of James J. Bennett.)

fact there was a secret Indictment pending against you?

A. Yes; he said an Indictment. Didn't say secret.

Q. Where did you get the word secret then?

A. From A. B. Clark.

Q. Who is A. B. Clark?

A. Federal Officer in Anchorage.

Q. And he told you it was a secret Indictment?

A. Yes.

Q. But you knew about it all the time?

A. I knew there was an Indictment, yes. I think——

Q. You think what?

A. I knew about it about a week, eight or nine days, I think, before we were arrested that it was a secret Indictment. [480]

Q. Are you familiar with secret Indictments, Mr. Bennett?

A. Not before I came to the Territory, no. Very little since then.

Q. Now, you said that Miss Casey said she was going to come up and work at the Squadron Club?

A. Work at a dance.

Q. You said Squadron Club?

A. The Squadron Club was mentioned, and the Bell and Whistle mentioned.

Q. You mentioned it? A. I did not.

Q. You did just a moment here, a moment ago, did you not?

A. I did, but I didn't mention it to Miss Casey.

(Testimony of James J. Bennett.)

Mr. Taylor: Objection, your Honor. That is quarreling with the witness.

Q. (By Mr. Stevens): Mr. Bennett, did you not just testify that Miss Casey told you she was coming to the Squadron Club?

A. The Squadron Club was mentioned, and the Bell and Whistle was mentioned.

Q. You don't understand my question. Did you not testify that Miss Casey told you she was coming to the Squadron Club?

A. I don't remember that. I know the Squadron Club was mentioned. [481]

Q. I am asking you what you said Miss Casey told you? How did Miss Casey know there was a Squadron Club in Fairbanks?

A. I do not know that.

Q. To your knowledge, had she ever been to Fairbanks before? A. I don't know.

Q. Had she ever been to Anchorage before?

A. I don't know that.

Q. Did you know Chief Fenton, too, Mr. Bennett?

A. You mean the Chief of Detectives, Andy Fenton?

Q. That's right. A. Yes, sir.

Q. And did you know he was after you, too?

Mr. Taylor: We object to the question, your Honor.

Mr. Bennett: Well, he was like he was after a little money.

Mr. Taylor: Just a moment, Mr. Bennett—going

(Testimony of James J. Bennett.)

to object to the question, prejudicial, not based on any evidence elicited on direct examination or cross-examination.

The Court: Objection sustained.

Mr. Taylor: Ask the jury to disregard the answer of the defendant.

The Court: The jury will disregard his statement after the question. [482]

Q. (By Mr. Stevens): How many times did you make trips with Mr. Wright, Mr. Bennett?

A. I only ever made one trip with him.

Q. Did you ever make a trip to Amarillo with him? A. No.

Q. Where is the Mink Club?

A. Out in northwest Amarillo on the Oklahoma City highway.

Q. You met him there, then?

A. Yeah, I was at the club when they came in.

Q. What was the trip you made with him actually as a passenger? A. Lubbock.

Q. When was that?

A. I don't remember what day it was.

Q. Was that before April the 4th, 1953?

A. No; it was after April. I had some business in Lubbock. I knew what he wanted so I just rode along with him. In fact, I drove the car.

Q. You knew what he wanted? A. Yes.

Q. What was it he wanted, Mr. Bennett?

A. He wanted to meet some people to buy some narcotics.

Q. Did you help him out, Mr. Bennett?

(Testimony of James J. Bennett.)

A. I sure did not. [483]

Q. But he kept seeing you, did he not, Mr. Bennett?

A. Yes; he was pretty much of a drunkard himself and the bank had taken everything he had, having some family trouble and he wanted some company more or less, it semed as.

Q. So you provided the company for a drunkard who was a Special Agent for the Bureau of Narcotics?

A. No, I didn't provide the company. He came around anyway, so to get him away and out of town I got in the car with him and went to another town.

Q. Isn't it a fact, Mr. Bennett, that you found out that he was a Special Agent for the Bureau of Narcotics on the 19th of June, 1953?

A. I did not. I knew it the night of April. I knew it before he came and talked to me because I had already been told he was coming to see me.

Mr. Stevens: Your witness, Mr. Taylor.

Redirect Examination

By Mr. Taylor:

Q. Was Mr. Wright a drug addict?

A. Well, yes; I see him pretty messed up two or three times. I think maybe sleeping pills or benzedrine.

Q. Now, when you were arrested by Mr. McRoberts, did he tell you at that time what he was arresting you for when he took you and Fern Bennett and Norma Crosby to jail?

(Testimony of James J. Bennett.)

A. He did not. He just said, "You're under arrest, too. Let's go," so I just grabbed me a shirt and we came on to the jail. Put me in the front seat between him and somebody. I don't know who it was. [484]

Q. Did Mr. McRoberts have a Warrant at that time?

A. He did not. He didn't read me no Warrant at that time. He said, "You're under arrest, too," and he took me on up to the jail, and to the desk where you are booked and making out the property slip, and I had my billfold out of my pocket and they already locked the two girls up, and he said, "I'm going to take you back to the room in a minute."

Q. Was that after he made the telephone call?

A. Yes, sir.

Q. And did he give you your property back?

A. Well, all I had taken was my knife and what change I had out of my pockets and laid down on the table up there, and I had my billfold out, started counting my money so I put it back in for the time being.

Q. And were those gas coupons in your pocket-book?

A. No, sir; they were not. They was on top of a chest of drawers along with an address book, and I think my gun was laying on top of them.

Q. Now, Mr. Stevens asked you a question about some telephone calls that Mr. Kehert made to you. Did Mr. Kehert tell you at the time that he called

(Testimony of James J. Bennett.)

you up after he came to Texas in the early part of June as to where he was calling from?

Mr. Stevens: Just a moment, Mr. Bennett. Mr. Taylor has learned what the hearsay rule is, your Honor. I object to this one. [485]

The Court: Objection sustained.

Q. (By Mr. Taylor): Did you know that he was in Texas when he made the call?

A. I didn't know for sure he was in Texas, no. He said he just gotten off the plane, got a new car and he would be down in a few days, be by to visit me.

Q. So you concluded the fact that he was going to drive down in a car he was in Texas?

A. Yes, sir.

Q. And he arrived in Texas by plane?

A. Yes, sir.

Q. Did you ever try to keep track of any telephone calls that Mr. Kehert might have made after he got to Odessa? A. No, sir.

Q. You never crowded into a telephone booth with him to listen to who he was calling, did you?

A. I never did.

Q. I thought maybe Mr. Stevens thought maybe you were in a telephone booth with him. Now, you say that you had been at the Highway 80 Motel two, three or four times?

A. Yes, I sold the old lady that owned the place her Cadillac and I usually sold her one every year.

Q. And a couple of those times that you went out there you saw Walter Brown who was here?

(Testimony of James J. Bennett.)

A. I don't remember ever seeing Walter Brown at the court. I seen Walter Brown down in the flat. I had a lot of [486] accounts down there and most all of them were delinquent, kept me down there quite a bit.

Q. And then you heard Walter Brown's testimony yesterday that he saw you twice during the time? A. I did.

Q. So it is possible that he could have seen you a few times down there?

A. He could have seen me by there. Some gamblers live out there that I sold both of those boys a car.

Q. And so then, did you ever see—pardon me, I will withdraw that. Where was the Moonlight Bar?

A. Twelve miles north of Odessa on Highway 51.

Q. And is that the bar to which your father brought the Cadillac to you?

A. Yes; it is a bar and whiskey store.

Q. And when had you packed your stuff and put it in the Cadillac?

A. I packed my stuff several days before, for I was supposed to go to Tennessee and North Carolina.

Q. Now, as to that stay in Denver, Mr. Bennett, could it have been possible there was a mistake, bad mistake made by the garageman as to the date?

A. Could possibly have been. I am sure it was on just one night.

(Testimony of James J. Bennett.)

Q. Did you stay at just one place in Denver?

A. Yes. [487]

Q. Now, Mr. Bennett, I hand you registration card for, that is marked Government's Exhibit "C," showed you occupied Room 11, your party occupied Rooms 11 and 15 in the Royal Motel?

A. Yes.

Q. And I believe if you examine that you will find out that the rate was sixteen dollars a day; is that right?

A. Yes.

Q. And what was the total that you paid that shows on the back of that card, Mr. Bennett?

A. Sixteen dollars.

Q. Sixteen dollars?

A. Yes.

Q. So you stayed there over one night?

A. That's right; got there the afternoon and left the next day.

Q. And according to the Government's Exhibit you stayed there one night; is that right?

A. Yes, sir.

Q. You didn't change hotels then while you were there?

A. No, I did not. I always stay there when I am in town.

Q. In Denver?

A. Yes, sir; I stayed there a number of times.

Q. Wouldn't have made a great deal of difference whether you stayed there one day or two days or three days, would it? [488]

A. I can't see where it would, no, sir.

Q. Now, A. B. Clark, you mentioned A. B.

(Testimony of James J. Bennett.)

Clark had told you there was an Indictment against you up here; who is A. B. Clark?

A. Federal Officer in Anchorage.

Q. What kind of a Federal Officer?

A. F. B. I. Federal Bureau of Investigation, all I know. He came out to my house after me.

Q. Now, you say you heard mention made by Miss Casey as to getting work in a dance hall?

A. Yes; she said she was what they call down there a strip dancer, stripper, and that was about our conversation.

Q. And she had, had she had an opportunity to talk with Mr. Kehert about these dance places in Alaska?

A. Well, I assume that she had, yes.

Q. Is that what you concluded is where she got her information about dance halls?

A. As far as I know.

Q. Now, in answer to some questions shouted at you by Mr. Stevens about this man Wright, what was his first occupation that you knew him when you first knew him?

A. Well, he was selling automobiles.

Q. Have his own business?

A. Had a lot; belonged to the First National Bank.

Q. Then what did he start doing?

A. Well, he started trying to get in politics around [489] there and he was kind of the laughing stock of the town and didn't get very far. He had tried to get on the Sheriff's Department a time or

(Testimony of James J. Bennett.)

two and had been turned down, and finally we got a new Chief of Police in there and I think he probably finally out-talked him for a three months' job. I think he was employed three months.

Q. In what capacity?

A. I have the dates on it, but I don't have them with me. He was a city policeman, worked along with the Narcotics. This new Chief, there was a petition to throw him out and I think they finally got together and resulted in him staying there. They had an election to vote him out twice.

Q. You heard Mr. Wright testify that he is connected with the Texas Bankers; do you know what that outfit is?

A. Yes; it is a little side street loan office.

Q. Oh, it is not as big as the name then; is that right?

A. No, sir.

Q. Now, in relation to when you crossed the border at, from Washington into Canada, you remember seeing Mr. Burton, the Immigration man, there?

A. Yes, sir.

Q. The little fellow that testified up here?

A. Yes.

Q. Did he talk to you at all?

A. No, sir.

Q. Who did he talk to? [490]

A. He didn't talk to anybody. He was driving down the road after we checked through the Customs and we went around him.

Q. So then before you checked in there Mr. Burton was on his way home; is that right?

(Testimony of James J. Bennett.)

A. Yes; Mr. Burton wasn't there when I checked through the Customs.

Q. Which car got there first?

A. We all got there together. I told him the Cadillac and the Mercury was mine, not the man who was on the stand here, was a tall fellow, probably around five eleven, or six one because he counted my money, asked me if I had sufficient money and I told him I did, so he asked me to show it and I counted the money out and presented the papers to my automobile along with insurance and a bond for the car and told him the other car belonged to me, was in my wife's name and he said, take it over to the lady there, and I gave it to my wife, and she gave it to a lady Customs or Immigration Agent.

Q. Did you see some lady checking any of the cars at that particular place?

A. Well, the lady was placed behind the desk. They just took the papers in. I had the papers and the invoice on it. At that time I didn't have a title to that car for it was almost new and I had an invoice on it, and the registration certificate.

Q. Did you have permission to bring it into the Territory of Alaska? [491]

A. I had written permission.

Q. To specifically bring it into Alaska?

A. Yes.

Q. So then some time before you came up here you intended to come to Alaska?

(Testimony of James J. Bennett.)

A. Yes; I intended to come to Alaska for the summer.

Q. Do you remember how long before you left Texas did you get this permission from the finance company to bring the car to Alaska?

A. I got that by telegram first, and then had to have the notarized statement. I didn't have any trouble getting this, but I had trouble getting out.

Q. How long was that before you left Odessa for Alaska that you did actually get your permission to take the car out of Texas?

A. Probably a month or more. When I bought the car I bought it with that understanding.

Q. You had intended then a month before to come back to Fairbanks?

A. Oh, yes; I had quite a bit of money in that Cadillac and the only way I could get out was to sell it up here.

Q. So you didn't make this trip then to bring Marilyn Casey into the Territory?

A. I did not. I knew nothing about that.

Q. Now, these gas coupons, would you just explain how these courtesy cards work, how they, the procedure to get the credit for gas and oil? [492]

A. Well, in the book that these receipts come out of there are three copies of them, of each.

Q. Do you carry that book?

A. No, I carry a card. It is about a two by three and a half. You present that to the dealer. Some of them have a stamp machine that they slip the card into and push a lever down into and it stamps

(Testimony of James J. Bennett.)

it on the top. You get one receipt, they keep one and one going to Standard Oil Company of Texas at El Paso, and it could be a Standard Oil Company of California, which I have both. It goes to California and they mail you a bill afterwards.

Q. Now, how do they print like on this card, how do they print that on there? Is it a stamp that they have?

A. It is a stamp from my card.

Q. That is a metal card then?

A. Yes, it is; well, you can see the size of the piece of metal from this blueprint here. It is a piece of metal on a piece of plastic fabric.

Q. And then how is the date put on there; is that stamped on with the stamping machine?

A. Yes; there is a date machine, a date number in those machines. The only thing I can think, the man just hadn't set his machine up to the day there.

Q. It is possible that he had not?

A. I just came in there one afternoon and left the next day. [493]

Q. Well, this exhibit, then, Mr. Bennett, does show that the date has been put on with some other machine, does it not, a dating machine?

A. Yes, and it isn't in line with the rest of the stamp there.

Q. And then you would attribute it to the difference in date here, it shows on your registration card at the hotel the 21st and this shows the 20th; it would be impossible for you to have got any gasoline from this man on the 20th day of June?

A. Yes, for I wasn't there. I was only there one

(Testimony of James J. Bennett.)

day. I got in there one afternoon, had my two cars serviced, stayed overnight, left the next day.

Q. You didn't have the man at the garage then make that mistake deliberately then, did you?

A. I did not.

Q. You had no reason to? A. No, not me.

Q. And was that credit card in your name, Mr. Bennett? A. It was in my father's name.

Q. And he arranged that credit for you for gas?

A. Yes; I have used it two or three years.

Q. Still have one? A. Yes, sir; have three.

Q. You use that credit card on the way to Alaska, did you, Mr. Bennett?

A. Yes, sir. [494]

Q. For gas for your car, your wife's car?

A. Yes, and sometimes for Kehert's car. Yeah, because I get four cents a gallon kick-back on it.

Q. You get a reduction by buying it through those cards?

A. Yes, sir; not everybody, but I get it through my daddy which he is in the gasoline business. He get a cut-back on it.

Q. Mr. Kehert reimburse you?

A. Yes; we kept a book of it, everything. Mr. Kehert reimbursed me for gasoline put in his car on my card. I think it was \$118.00 worth put in his car.

Q. That was reimbursed to you by Mr. Kehert?

A. Yes, sir; he paid me.

Q. Now, Mr. Kehert, or Mr. Bennett, calling your attention to Plaintiff's Identification 56, was

(Testimony of James J. Bennett.)

that Complaint read to you in its entirety by Mrs. Nordale?

A. The charges were read to us. I don't know if it is that one or not. I don't remember what they said. It is up in the Commissioner's Court.

Q. And was that shortly after your arrest by Agent Harkabus and Worsham?

A. Yes; it was the next day, or the next. It was right shortly after that. I think it was the following day.

Q. And then on Government's Identification No. 57 you say that Mr. Harkabus started to read the Warrant to you? [495]

A. He just read off my name and what I was charged with, aiding and abetting, something like that.

Q. You understood he said that?

A. Yeah, he said something about transportation of a woman for immoral purposes, something like that. I asked him what it means and that is what he said.

Q. Well, then, you said, "Let's go"; is that right?

A. I said, "Let's go," but those Warrants were folded up, not like that.

Q. They were folded up?

A. He folded them something like that where he had them in his hand. That is one reason I didn't recognize these Warrants.

Q. Well, after you got to Fairbanks, Mr. Ben-

(Testimony of James J. Bennett.)

nett, what was the next time that you saw Miss Casey after you arrived?

A. Well, I think we all ate up here, I think it is 13th Street, I know it now, one of them little old lunch counters there and I went to see some people about getting my car on the cab stand and come to find out they wasn't using any lease cars. That is about the last time I seen Miss Casey, seen her going through a bar or something, but I never had any conversation with her.

Q. Did you know what she was doing?

A. No, I didn't. Miss Casey and I never got along too well. I just didn't know her and didn't talk to her too much.

Q. So you didn't bring her up here for any purpose of prostitution? [496]

A. No, I did not.

Mr. Taylor: That's all.

Recross-Examination

By Mr. Stevens:

Q. Mr. Bennett, after you left here, were you arrested in Anchorage for the same thing, for the same charge?

Mr. Taylor: We object, your Honor, upon the grounds it is improper question as to an arrest. I think as far as a conviction, I think he can ask him as to a conviction, but no arrest.

Mr. Stevens: Your Honor, I think the question is valid to show whether or not there was a common scheme on the part of these defendants to transport

(Testimony of James J. Bennett.)

women for the purpose of prostitution. I asked him whether or not he was arrested for the same charge in Anchorage after he left here.

Mr. Taylor: Your Honor, I am going to object.

The Court: I will sustain the objection.

Mr. Stevens: May we have the recess, your Honor?

The Court: Yes. In a moment the court will adjourn until 1:30, but the jury will be excused until 2:00 o'clock. Report back at 2:00 o'clock. In the meantime, remember not to talk about the case or the parties, or to permit anyone to talk about them within your hearing. Keep your minds perfectly free from an opinion as to the guilt or innocence of these defendants until the case is finally submitted to you.

The Clerk: Court is recessed until 1:30. [497]

(Thereupon, at 12:00 noon a recess was taken until 1:30 p.m.)

Afternoon Session

(The trial of this cause was resumed at 2:00 p.m., pursuant to the noon recess.)

The Court: Call the roll of the jury, Mr. Clerk.

(Whereupon the Clerk of Court proceeded to call the roll of the jury.)

The Clerk: They are all present, your Honor.

The Court: Counsel ready to proceed with the trial of this case?

(Testimony of James J. Bennett.)

Mr. Taylor: Defendant is ready, your Honor.

Mr. Stevens: Prosecution is ready, your Honor.

The Court: Very well, proceed.

JAMES J. BENNETT

the witness on the stand at the time the recess was taken, resumed the stand for further

Recross-Examination

By Mr. Stevens:

Q. Mr. Bennett, this is Government's Exhibit "Q." I believe it is picture; have you seen that picture before? A. Yes.

Q. Was that a picture taken of you and your party at the Mink Club?

A. It was taken at the Mink Club.

Q. It is a true picture? A. Yes. [498]

The Clerk: Government's Identification No. 58.

(Photograph of James J. Bennett and Carol Ward was marked Government's Identification No. 58.)

Q. (By Mr. Stevens): This is Government's Identification 58, Mr. Bennett; was that taken at the same time? A. Same night.

Q. Is that one of the series of pictures that was taken of you and your party that night?

A. It is a picture taken of me and Carol.

Q. And you remember when it was taken; do you remember having your picture taken there?

A. Certainly.

Q. And that is a picture of you and Carol?

A. Yes.

(Testimony of James J. Bennett.)

Q. Now, Mr. Bennett, did you tell Artie Reynolds in Denver that you were in the oil business?

A. That I was in the gasoline business.

Q. You were in the gasoline business?

A. I had an interest in the station, yes.

Q. You didn't tell him you were in the oil business?

A. No, I did not.

Q. You said you were in the automobile business, too?

A. I have been buying and selling cars for a number of years. [499]

Q. Did you have a license to buy and sell cars?

A. At that time I was working with another man's license.

Q. Isn't it a fact that in Texas you have to have a license to buy and sell cars?

A. It is not. If you are maintaining a lot you do.

Q. Well, would you consider yourself as having been a dealer in Texas?

A. No; I was working for a dealer that had a license.

Q. And who was that person?

A. Ernest Phillips for one, Captain Phillips for another one. Both of them are corporations.

Q. And these cars that you bought, did you buy them for the corporation?

A. I bought them for people I knew that would buy them retail in return.

Q. Well, then, Mr. Bennett, why is it that you made such a point about the fact that when you got

(Testimony of James J. Bennett.)

up here to Fairbanks you tried to get your personal cars that you say you bought, the Mercury and the Cadillac, turned into taxicabs?

A. I didn't try to get the Mercury taxicab.

Q. Didn't you testify here this morning that they were not leasing cabs here?

A. I testified as to my Cadillac and I talked to a man about putting on my Cadillac. He told me they weren't putting on any leased cars. [500]

Q. Isn't it a fact that that Mercury is now being used as a taxicab in South Fairbanks?

A. No, it is not. It doesn't have a "for hire" tag on it if it is.

Q. Mr. Bramlett does run a taxi business in the south end?

A. I understand he is driving a Chrysler, yes, sir.

Q. Now, you say that you saw Mr. Burton, the Canadian Immigration Inspector, just driving down the road; you never talked to him?

A. No, I didn't talk to him.

Q. All you saw him was when you passed him?

A. I saw him two or three times.

Q. But that was just when you passed him in the car, was it not?

A. There was a car way down ahead of us when we pulled into the Customs. In fact, about the time we drove in he pulled out, drove along slow and we overtook him.

Q. You saw the man that was driving the car at the Customs station?

(Testimony of James J. Bennett.)

A. When I drove in the Customs station, he was driving out.

Q. You did not know who was in the car then?

A. No, I didn't know who it was.

Q. Then the only time you saw him was when he passed you on the road? [501]

A. No; when he went into his front gate, walked through the gate and turned around and looked at us as we passed.

Q. That is what he testified here, too, is it not?

A. I don't know.

Q. But the only time you saw him was as you drove past him; you didn't ever stop and talk to him?

A. No.

Q. But you remember exactly who he is?

A. I remember him passing me; as far as identifying him, no, I don't remember him. I know he isn't the man that checked me in at the Customs.

Q. You know he is the man you passed on the road?

A. His haircut and head looks like it.

Q. But you don't remember seeing him at the Immigration Station?

A. No.

Q. Mr. Burton's testimony then concerning his conversation with you is not true?

A. It is not. He had no conversation with me. I think if you will check those tickets you will find out who checked me in there.

Q. Are you under the impression, Mr. Bennett, that Mr. Burton came all the way up here to tell something he did not know?

A. I am under the impression that Mr. Burton

(Testimony of James J. Bennett.)

is like two or three more of the witnesses, that he was more or less told what to say. [502]

Q. A member of the Department of Justice, too, Mr. Bennett?

A. I don't know what he does. He was in a car when I seen him first, and standing in his yard the last time.

Q. And Mr. Reynolds, you are under the impression that he did not tell the truth also; is that correct? A. Who is Reynolds?

Q. He is the gas station operator from Denver.

A. I think Mr. Reynolds' statement was true more or less, all with the exception of the date on those tickets.

Q. And also to the fact that you drove up in the Mercury and not in the Cadillac?

A. I drove the Cadillac myself.

Q. He stated that a lady drove up in the Cadillac? A. He could have been mistaken.

Q. And Mr. Brown was also mistaken that he had a conversation with you?

A. Yes; Mr. Brown sure was.

Q. And Mr. Wright was mistaken when he testified that he had a conversation with all of you, all four of you concerning your trip to Alaska?

A. Yes; he sure was. Mr. Wright is mistaken about a lot of things.

Mr. Stevens: Your Honor, we offer this Government's Identification 58 in evidence also. It is a companion picture.

Mr. Taylor: We object, your Honor. It goes

(Testimony of James J. Bennett.)

to [503] prove none of the issues of the Complaint. A picture taken—there is another picture the same might put into evidence here. We don't see where it could be competent, relevant or material.

The Court: Objection overruled. It may be admitted.

The Clerk: Government's Exhibit "U."

(Government's Identification No. 58 was received in evidence as Government's Exhibit "U.")

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: That's all, Mr. Bennett.

(Witness excused.)

Mr. Taylor: Call Mr. Kehert.

WESLEY KEHERT

one of the defendants, was duly sworn as a witness in his own behalf, and testified as follows:

Direct Examination

By Mr. Taylor:

Q. Will you state your name, please?

A. Wesley Kehert.

Q. Where do you reside, Mr. Kehert?

A. Anchorage.

Q. How long have you resided at Anchorage?

A. On and off for about eight years.

Q. And how long have you been a resident of Alaska?

A. On and off eight years.

(Testimony of Wesley Kehert.)

Q. And what is your occupation, Mr. [504] Kehert?

A. Well, I have worked as a waiter, electrician, carpenter, and I had a cab company and drove cab.

Q. Are you in business in Anchorage at the present time? A. No, I am not.

Q. Did you ever work for the government?

A. Yes, I did.

Q. What doing? A. Electrician.

Q. Were you in the service, Mr. Kehert?

A. Yes, I was.

Q. What outfit were you in?

A. Marine Corps.

Q. And where did you serve?

A. In the Pacific.

Q. And in what particular places?

A. Guadalcanal, Bougainville, Emiru and Guam.

Q. And when were you discharged from the Marine Corps? A. November 5, 1945.

Q. What was the reason for your discharge?

A. I got—I was wounded while I was overseas.

Q. And do you now receive any pension or disability pay? A. I receive \$60.00 a month.

Q. Is that permanent disability?

A. Yes, it is.

Q. For wounds received in action? [505]

A. Yes, it is.

Q. Now, Mr. Kehert, were you in Anchorage during the early part of the year of 1953?

A. Yes.

Q. Particularly the month of May?

(Testimony of Wesley Kehert.)

A. Yes.

Q. How much of that month were you there?

A. I was there the whole month of May.

Q. And after the expiration of the month of May, 1953?

A. I took Northwest Airlines and flew to Chicago about June. Around from the 2nd to the 3rd, something like that, 4th, it was around in there.

Q. Where did you go from there?

A. I went from there down to Indiana to see my mother for a few days. From there I left and went to Texas.

Q. And about what time did you go to Texas?

A. I must have went to Texas around the 10th of June, and I went to Lubbock, Texas, first. I was there about, a few days; from there I called Bennett up and went over to Bennett's.

Q. Now, during the early part of May, 1953, where was you working?

A. I was working at the Bell and Whistle taxi dance in Anchorage, waiting tables.

Q. And how long that month did you work there?

A. I worked on up until about, oh, I imagine, around the 20th of that month, I believe. [506]

Q. You worked all the month except after the 20th? A. No, I came to Fairbanks.

Q. What date did you come to Fairbanks?

A. I was in Fairbanks around the 23rd, 24th of May.

(Testimony of Wesley Kehert.)

Mr. Taylor: I would like to have these marked for identification.

The Clerk: Defendant's Identifications A and B.

(Check made payable to Wesley Kehert, dated 5/16/53, signed by Starres, was marked Defendant's Identification A.)

(Check made payable to Wesley Kehert, signed by Starres, was marked Defendant's Identification B.)

Q. (By Mr. Taylor): And how long did you remain in Fairbanks?

A. I remained in Fairbanks for about two days. I went back to Anchorage.

Mr. Stevens: I would like to look at those, Mr. Taylor.

Q. (By Mr. Taylor): You say you were here about two or three days, then went back to Anchorage?

A. That's right.

Q. And who were you with in Fairbanks?

A. I was with Ace Burney, the fellow that was up here yesterday. [507]

Q. Now, I hand you Plaintiff's, or Defendant's Identification A, and ask you to look at that check and state if you can what it is?

A. This is a check for a week's work at Bell and Whistle Club made out by Starres, Larry Starres.

Q. Who is it payable to?

A. To Wesley Kehert.

Q. What is the date of issue?

A. May 16, 1953.

(Testimony of Wesley Kehert.)

Q. And what is the date of the cashing of that?

A. I——

Q. I think if you hold the perforations up to the light.

Mr. Stevens: I object to that, your Honor. That is not any evidence of when the check was cashed. It is evidence of when the check went through the bank.

The Court: Objection overruled.

A. I can't figure out this.

Q. (By Mr. Taylor): Is that a check you got then for, pay for the week ending—did you cash this yourself at the bank, Mr. Kehert?

A. Either there or at the Bell and Whistle, one or either at one of Starres' other places. That is the only place it might have went through, at Bell and Whistle or it might have went through one of his other places.

Q. I ask you to take a look at the endorsements on the back and ask if you can state when that was cashed, or who cashed it? [508]

A. Well, this was probably cashed over at Starres. It has got Larry's, Inc. I imagine the bookkeeper ran it through.

Q. And that was on the 18th day of May?

A. 16th day of May.

Q. That is the date it was issued, and see what date it was run through the bank there, Mr. Kehert?

A. It was ran through the, May 18, '53.

(Testimony of Wesley Kehert.)

Mr. Taylor: If the court please, we would like to have these introduced in evidence.

Mr. Stevens I would like the right to cross-examine this witness on those.

The Court: Very well.

Q. (By Mr. Taylor): After you got that check on the 16th of May was you still employed there?

A. I think I worked a few more days after that and came to Fairbanks. I believe that was the way it was.

Q. Then you were in Alaska all of the month of May, 1953, Mr. Kehert. A. Yes, I was.

Q. And what was the date you say you arrived in Texas?

A. Well, roughly I would figure around the 10th of June. Now, I figure that now, now I could be a little off, a few days, but it is roughly there pretty close.

Q. And where did you go in Texas?

A. I first went to Lubbock, Texas.

Q. And then where did you—how long did you stay there? [509]

A. I stayed in a motel down there for about four days, I believe it was.

Q. And where did you go from there?

A. From there I went to Odessa, Texas.

Q. Did you see Mr. Bennett at Odessa?

A. Yes, I did.

Q. And how long did you remain at Odessa?

A. Oh, for a couple days, and then we went to Galveston.

(Testimony of Wesley Kehert.)

Q. And you have any particular purpose in going to Galveston?

A. I wanted to see this girl in Galveston.

Q. Which one was that?

A. Marilyn Casey.

Q. You had know her before?

A. Yes, I did.

Q. And how long did you stay there?

A. In Galveston?

Q. Yeah.

A. I was there about, either two or three days, might have been two days.

Q. What conversation, if any, did you have with Marilyn Casey regarding coming to Alaska?

A. Go to work at the Squadron Club or the Bell and Whistle Club in Anchorage. She was wanting to come.

Q. Who brought up the subject of coming to Alaska? A. She did. [510]

Q. Had you told her that you were coming back to Alaska?

A. I told her I didn't care too much about coming right then, but I was going to come and she said she would like to go and all of that.

Q. Did Mr. Bennett participate in that discussion of her coming up? A. He did not.

Q. And how long—did Miss Casey accompany you then back to Odessa? A. That's right.

Q. And how long were you at Odessa before you left for Alaska?

(Testimony of Wesley Kehert.)

A. We got in that evening and left that morning.

Q. About what time?

A. Oh, it was early. I imagine around four o'clock or so, five o'clock, around there somewhere. I'm not for sure about the time.

Q. Warm weather at that time?

A. Yes, it was. It was getting pretty nice.

Q. You drove from there to Denver?

A. Yes, arrived in Denver on Sunday evening.

Q. And how long did you stay in Denver?

A. Until I went to Western Union the next morning and picked my money up.

Q. You got in there on Sunday and went to Western Union on Monday morning?

A. That's right. [511]

Q. And you cashed that money order for \$992.00? A. Correct.

Q. And then you proceeded to come north along, you say the testimony of Mr. Bennett is practically identical with the testimony you would give in this case? A. I would say so.

Q. Now, at any time did you ever have any talk with Marilyn Casey regarding her entering into the practice of prostitution in Alaska?

A. We did not.

Q. Or any other place? A. We did not.

Q. And after you got to Fairbanks, what, if anything, did Miss Casey ask you to do?

A. When we got to Fairbanks?

Q. Yes. A. What did she ask me to do?

(Testimony of Wesley Kehert.)

Q. Regarding lodging?

A. Oh, we was having some misunderstanding and all and I got her this room down at Murphy's.

Q. Was that at her request?

A. Yes, it was, and mine also. We both agreed on it.

Q. And did you then have any association with Marilyn Jean Casey after that?

A. No, I did not. I mean we wasn't on the outs or anything like that. I mean just an understanding. [512]

Q. That your relationship was off; is that right?

A. That's right.

Q. Did you know that she had entered into the practice of prostitution? A. No, I did not.

Q. And then what, were you arrested shortly after that? A. That's right.

Q. And where were you arrested?

A. Transient Rooms.

Q. And who arrested you?

A. Harkabus, Worsham and McRoberts.

Q. And what time of the day was it that you were arrested?

A. That was in the evening, about seven o'clock I imagine, something like that.

Q. And did all of those men come to the door?

A. Yes, they did.

Q. What did they do?

A. There was a knock on the door, and I said, "Come in." No one came so I got up and opened the door and I was pushed back on the bed. Mr.

(Testimony of Wesley Kehert.)

Harkabus jumped up on top me with his pistol on my head and hollered, "Where is it; where is it?" And I finally managed to say, "Where is what?" He said he wanted my gun and I told him I didn't have one. He tied me down to my waist. I was shoved in the hallway, asked to put my hands up on the wall, which I could not do. Mr. Worsham politely booted me one and McRoberts came up and said, [513] "Wait a minute. He cannot put his hands up. He is taped to his waist." I was tied with my belt buckle. So McRoberts untied me. I put my hands up. They shook me down and put me back on the bed. Then they proceeded to shake my room down. I guess they was looking for a pistol. That is what they said, so they came across the camera and wanted to know whose the camera was. I said it was mine. They was not in the sack. My hat was in that sack that they got here. They took the hat out of the sack. They took the sack. Camera was in a drawer, said whose camera, I said mine. They took that. Films was in another drawer. They said, have these been taken. I said I didn't know if they was or not, so they took the film which later on found out the film was taken. I think there was one roll which wasn't taken.

Q. They was taken in more than one way?

A. Yes, and then I had some more pictures there of my mother, people and they proceeded to take them back.

Q. Did you get them back?

A. Never. I went up and asked for them.

(Testimony of Wesley Kehert.)

Q. Did you get a receipt for them?

A. Absolutely no. They wouldn't give me one.

Q. Who did you ask for a receipt?

A. Mr. Worsham for one.

Q. Did you ever ask McRoberts?

A. No, I did not. He told me he would see they were returned to me when this was over. [514]

Q. Where was you taken after they got through searching the room?

A. I was taken to Mr. Gore's office. I was then shown my warrant. They told me I had a right then to call an attorney and anything I would say then would be used against me. And then they asked me if I had anything to say and I said no, and that is when I was booked. That was all of it.

Q. Were you present at the preliminary hearing of this case? A. Which one?

Q. The first one before Mrs. Nordale?

A. Where we was found not guilty?

Q. Well, the time you were released?

A. Yes, I was.

Q. And at that time was not a demand made by your attorney for the return of the articles that had been taken from your possession?

A. Yes, they were.

Q. And were they returned?

A. They were not.

Q. And were those same articles then used before the grand jury for the returning the indictment for which you are being tried now?

A. That is what I was told.

(Testimony of Wesley Kehert.)

Q. Now, Mr. Kehert, at any time while you were on the trip from Texas to Fairbanks or any time prior to that or after [515] you got here, did you have any conversation or any understanding with Marilyn Casey that she was to practice prostitution in Fairbanks or other places in Alaska?

A. I did not.

Q. Have you ever been convicted of a crime, Mr. Kehert?

A. Yes, I have been.

Q. Where?

A. In Anchorage.

Q. What was the nature of the crime?

A. Failing to stop at the scene of an accident.

Q. Did you stop?

A. I stopped and went around the block and came back to the scene.

Q. And what was the outcome of that case?

A. I was fined three hundred dollars, three months suspended sentence, and I made a five hundred dollar settlement, paid the hospital bill of the person that was involved.

Q. After you hit him, you did run around the block and came back to where he was?

A. That is right exactly, but they seen fit to say that if you moved at all it was leaving the scene so I was found guilty. That was in Commissioner's Court.

Q. Any other convictions?

A. No, sir.

Q. Now, Mr. Kehert, you heard the testimony of a man by the name of Mr. Wright?

A. I heard it. [516]

Q. And he stated under oath that he was present at Mr. Bennett's house on the 18th day of May,

(Testimony of Wesley Kehert.)

1953? A. That's correct.

Q. And that you drove up in a laundry truck?

A. That's right.

Q. Was that statement by Mr. Wright true?

A. It was false and there is a hundred people in Anchorage that can prove it, and these checks.

Q. On that date you were in Anchorage?

A. Absolutely.

Q. So Mr. Wright then was deliberately perjuring himself then on this stand; is that right?

A. He most certainly was.

Mr. Taylor: You may take the witness.

Cross-Examination

By Mr. Stevens:

Q. You have lived off and on in Anchorage for eight years, Mr. Kehert? A. Yes, sir.

Q. Have you been to Galveston before?

A. Yes, sir.

Q. During that eight years? A. Yes, sir.

Q. How many times? A. One time.

Q. When was that? A. In '53. [517]

Q. What time in '53?

A. Well, it was around February, March.

Q. Of 1953? A. Yes, sir.

Q. How did you go down?

A. I flew down.

Q. Isn't it a fact, Mr. Kehert, that you flew down to Texas in May, the latter part of May, 1953? A. No, it is not true.

(Testimony of Wesley Kehert.)

Q. Are you sure you were not in Anchorage June of 1953, June 3rd, 4th, 5th and 6th?

A. I left around the 3rd, I believe it was, around the 3rd I left.

Q. Where do you live now?

A. Anchorage.

Q. Where? A. 1335 East "I" Place.

Q. When was it that you lived at the North Star Motel with Mr. Burney?

A. That was in May.

Q. In May? A. Yes, sir.

Q. Latter part of May? A. Yes, sir.

Q. Was that while you were working for the Bell and Whistle?

A. I believe it was after I left the Bell and Whistle. [518]

Q. How long have you known Ace Burney?

A. Oh, for a few years slightly, you know, until we lived together is when I really knew him.

Q. Were you engaged to Miss Casey?

A. As a manner of speaking, yes.

Q. Well, by engaged do you mean what most people mean, that you were going to marry Miss Casey? A. That was the general idea.

Q. When were you to get married?

A. Whenever we seen fit.

Q. And did Miss Casey know where you were during the last year or so?

A. No, I don't believe so.

Q. Did she know where you were until June of 1953? A. Yes.

(Testimony of Wesley Kehert.)

Q. When did you inform her?

A. What was it?

Q. When did you inform her of your whereabouts?
A. When I seen her in June.

Q. In June?
A. Yes, sir.

Q. And you decided then you would marry her?

A. Well, we talked about it before.

Q. And she knew you had been in Alaska?

A. I don't know if I told her that or not.

Q. Didn't discuss going to Alaska with [519]
her?
A. The first time?

Q. You said you didn't discuss, you told Mr. Taylor you did not discuss going to Alaska with her?

A. Which time are you speaking of?

Q. In June of 1953.

A. Oh, we discussed it. She and I did, on the way to Odessa from Galveston.

Q. She just packed up from Galveston and went on with you to Odessa without knowing where she was going?

A. Oh, we talked about going to Alaska, and I didn't care to go then, but she said she would like to go.

Q. Your hat was in that sack that is in evidence?

A. My hat was in my sack.

Q. Is that your sack?

A. No, it wasn't my sack, no.

Q. Do you know what the store is?

A. I believe a pair of pedal pushers came in there, I believe.

(Testimony of Wesley Kehert.)

Q. Miss Casey bought them at the Fashion Bar in Denver? A. I believe so, yes, sir.

Q. Mr. Kehert, are you sure of when you left Anchorage in June of 1953?

A. Yes, sir.

Q. And it was sometime around the 3rd?

A. Sometime around there. It might have been a few days forward. [520]

Q. Which way?

A. Well, it could be the 4th, 3rd or the 4th. It is right in that neighborhood.

Q. Wasn't it a fact you flew down to Texas, then came to Fairbanks, then to Anchorage and then back to Texas?

A. No, I went back to Chicago, and Jeffersonville, Ind.

Q. Oh, you went to Jeffersonville, Indiana?

A. I bought an automobile in Chicago and then went to Jeffersonville, Indiana.

Q. And then went down to Lubbock?

A. Went to Lubbock.

Q. Who did you go to see?

A. Just took a trip down there.

Q. Had no friends in Lubbock? A. No.

Q. Mr. Garcia down there?

A. No, he lived outside of Lubbock.

Q. You know him?

A. Oh, yes, I do know him.

Q. You were pretty much booted around by the FBI, were you?

(Testimony of Wesley Kehert.)

A. I wouldn't say so, no.

Q. I believe you said Mr. Worsham booted you one?

A. He took his foot and shoved me up against the wall and said, "Put them hands up."

Q. How did he kick you? [521]

A. He took his foot and politely shoved me up against the wall.

Q. What did he have in his hands?

Q. He had nothing in his hands.

Q. He put his foot to you?

A. That's right. He couldn't understand why I couldn't put my hands up.

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: That's all, Mr. Kehert.

(Witness excused.)

Mr. Taylor: I would like to call Mr. Stevens, your Honor.

Mr. Stevens: I am not hesitant about taking the stand as long as Mr. Taylor doesn't want to invoke this rule that says I can't come back to my job as a prosecutor.

Mr. Taylor: I am not using that as a subterfuge to get rid of Mr. Stevens, your Honor. I just want to ask him a few questions.

THEODORE F. STEVENS

a witness called in behalf of the defendants, was duly sworn and testified as follows:

Direct Examination

By Mr. Taylor:

Q. Mr. Stevens, I believe you are the United States Attorney for the Fourth Division, Territory of Alaska? A. I am. [522]

Q. And you were such United States Attorney or acting United States Attorney at the time of the arraignment on the first arrest of Mr. Kehert and Mr. Bennett and these two girls?

A. No, I was not.

Q. Who was the United States Attorney at that time?

A. At the time of the first arrest, I do not know. I took office on the 1st day of September, 1953.

Q. Well, were you the United States Attorney that conducted the hearing before Mrs. Nordale, I believe along the 20th day of October, 1953?

A. I conducted the first preliminary hearing on the 6th day of October, 1953, before Mrs. Nordale in connection with this case.

Q. Was that the time the case was dismissed?

A. That was not the time the case was dismissed.

Q. When was the case dismissed?

A. The case was continued on the 6th day of October until the 20th day of October, because Miss Casey was feigning sickness. We reconvened the preliminary hearing on the 20th of October at your

(Testimony of Theodore F. Stevens.)

request and at that time Miss Casey refused to testify for the government and I dismissed the case. The case was never dismissed from the preliminary hearing because of lack of evidence.

Q. Isn't it a fact, Mr. Stevens, that Miss Casey told the same story at the preliminary hearing before Mrs. Nordale on the 20th day of October that she told here? [523]

A. It is not a fact. Miss Casey has now told five stories to my knowledge.

Q. And she did state that the statement that has been put in evidence here, the two statements were false?

A. She did not. She was presented with one statement, Mr. Taylor, the Affidavit of Facts taken before Mrs. Nordale on the 8th day of July, 1953, and Miss Casey stated under oath in answer to my question that every word of the statement was a lie. Every word, Mr. Taylor, not the whole statement, every word.

Q. And thereupon you dismissed, you asked Mrs. Nordale to dismiss the case?

A. Thereupon I did and informed Mrs. Nordale that I was taking the case directly to grand jury.

Q. And then at that time, Mr. Stevens, do you recollect my making a motion to Mrs. Nordale for the release of the exhibits that had been introduced?

A. I do, Mr. Taylor, and I refused to grant that.

Q. Was it not within the province of Mrs. Nordale to grant the release of those exhibits?

A. Those exhibits were never admitted in evi-

Mr. Stevens: We call Mr. Nichols, your Honor, if you please. [526]

CLIFTON C. NICHOLS

a witness called on behalf of the plaintiff in rebuttal,
was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Clifton C. Nichols.

Q. Where do you live, Mr. Nichols?

A. In Anchorage, Alaska.

Q. What is your business in Anchorage, Alaska,
sir? A. Owner and operator of a motel.

Q. What is that motel?

A. The North Star, North Star Motel.

Q. And where is the motel located?

A. Fifteenth and Gamble in Anchorage.

Q. And how long have you run that motel, sir.

A. We opened the 8th of last May.

Q. You opened on the 8th of last May?

A. That's right

Q. And have you been the owner of that motel
since then? A. Yes, sir.

Q. Who operates it with you?

A. My wife.

Q. And as the normal course of business, do you
keep records of the guests who stay in your motel?

A. Yes, we do. [527]

Q. And do you keep a record of all the guests
that stay in your motel? A. That's right.

(Testimony of Clifton C. Nichols.)

Q. How did you keep the record, say during the month of May?

A. Well, we had a hotel register book that everyone registered in.

The Clerk: Government's Identification No. 59. Government's Identification No. 60, and Government's Identification No. 61.

(Register of North Star Motel, Anchorage, Alaska, was marked Government's Identification No. 59; Registration card of North Star Motel showing name of Steve Williams was marked Government's Identification No. 60; Registration card of North Star Motel showing names of Kehert and Burney was marked Government's Identification No. 61.)

Q. (By Mr. Stevens): Now, Mr. Nichols, this is Government's Identification 59; would you identify that for us, please?

A. Yes, this is our hotel register for that, we opened up, used when we first opened up. We had some register cards coming but they didn't get there in time, so we used this hotel register until the cards came.

Q. And did you register your guests or did you have your guests register in that book? [528]

A. We had every guest register in that book until we got the cards.

Q. Have you examined that book to determine who was registered there during the month of May

(Testimony of Clifton C. Nichols.)

before you came to this court? A. Yes.

Q. Have you examined that book to determine whether or not Wesley Kehert and Ace Burney were registered there during the last two weeks of May?

A. Well, they weren't registered as A. Burney and Steve Kehert on the 2nd of June.

Q. And how long——

A. There is no register in May of that name.

Q. And how long did Mr. Burney and Mr. Kehert stay at your motel in June, according to your records?

A. Well, they were there on the 2nd and 3rd and 4th, and then evidently checked out and checked back in on the 5th and were there two more days, 5th and 6th of June.

Q. This is Government's Identification 61, Mr. Nichols; will you tell us what that is, please?

A. Well, this is the card. We got the card on the 5th of June and we made up cards. This card here made up from the books. That is the name has been transferred from the book and the record of the two days, the 5th and 6th is on this card.

Q. Is that a record you kept in the normal course of business in operating your motel?

A. Yes. [529]

Q. And was it the normal course of business for you to keep such records? A. Yes, it was.

Q. I hand you Government's Identification 60; will you tell us what that is, please?

A. Well, it is register under the name of Steve Williams on July the 26th.

(Testimony of Clifton C. Nichols.)

Q. And is that a record which you kept in the normal course of business? A. That's right.

Q. Are you required by law to keep these records, Mr. Nichols?

A. I think so. I never did look up the law on it.

Q. But you do keep them as a normal course?

A. We do keep the records.

Q. And everyone that checks into your place, do you have a record of them? A. That's right.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Mr. Nichols, are you personally acquainted with Mr. Kehert?

A. No, not personally. I wouldn't know him. I have seen his face, but I wouldn't know him by name if I was to see him. [530]

Q. Do you remember him as being a guest at your establishment? A. I think so.

Q. And you remember Mr. Burney, a cook that was living there with Mr. Kehert?

A. You say he was a cook?

Q. I believe he was driving taxi at that time, taxi driver?

A. I remember something about it, and that's about all. It is remote in my mind. I can't put all these faces and names together exactly.

Q. Quite a few people pass through your motel, I suppose? A. That's right.

(Testimony of Clifton C. Nichols.)

Mr. Taylor: That's all, Mr. Nichols.

Mr. Stevens: Your Honor, we offer into evidence Government's Identifications 59, 60 and 61 as business records kept by the North Star Motel, and the offer is made pursuant to the business records statute.

Mr. Taylor: I would like to see Identifications 60 and 61, please.

Q. (By Mr. Taylor): Mr. Nichols, I see the name here is Steve Kent, did you have a——

A. Oh, which one, which card is it on?

Q. That is on the one dated June the 5th, 1953?

A. That could be an error. I think my wife when she [531] transferred that from the books. We got the cards and we made up cards for all the persons that were there at that time. She may have misspelled it.

Q. Is the name spelled right on the registration book? A. I think so.

Q. And that was the last registration that came in there then, on June the 5th; is that right?

A. Well, that is the last one under that name, yes.

Q. Well, isn't it the last one that you have in the book?

A. I think so, yeah, that is the last registration in the book.

Q. And when was that registration made?

A. June the 5th.

Q. Wasn't made since you were ordered to come up here to testify, was it? A. Oh, no.

(Testimony of Clifton C. Nichols.)

Q. It is just a coincidence then that it happened to be the last item in the book?

A. Yes, we got the cards and a card rack that those cards fit in, and we put them on the cards.

Q. And these were copied from the books?

A. The one card was and the other card is a definite signature, Steve Williams.

Q. And that was dated July the 26th, 1953, was it?

A. Whatever it is on the card. Yes, the [532] 26th.

Mr. Taylor: If the court please, we have no objection to the introduction of the book, but as these were copies, the one shows Steve Kehert on June the 5th, 1954, as that is a copy from the book, your Honor, it wouldn't be an original record and we are going to object to it, and the one on July the 26th is too remote, has no bearing on the issues in this case; would be incompetent, irrelevant and immaterial. We object to the admission.

Mr. Stevens: We have no objection for withdrawing the offer for June the 5th. It is a duplicate record. The book speaks for itself. We do offer the other two, the book and the July 26th record.

Mr. Taylor: I can't see where the July 26th record is pertinent at all, your Honor. That is a month after all this stuff happened.

The Court: Say that again, Mr. Taylor.

Mr. Taylor: July the 26th, 1953, your Honor, is quite remote.

The Court: How do you think that is relevant?

(Testimony of Clifton C. Nichols.)

Mr. Stevens: It is a registration by the same person under the name of Steve Williams. Mr. Kehert has been known as Steve Williams by various people involved in this proceeding, Mr. Wright for one, Miss Casey for another.

The Court: Very well then, the offer will be accepted. It may be admitted.

The Clerk: Identification 59, the register, is Government's Exhibit "V"; and Identification No. 60, the [533] guest register, the original that is, Government's Exhibit "W."

(Government's Identification No. 59 was received in evidence as Government's Exhibit "V"; Government's Identification No. 60 was received in evidence as Government's Exhibit "W.")

Redirect Examination

By Mr. Stevens:

Q. Now, Mr. Nichols, this is Government's Exhibit "V." Now, will you take a look there at approximately June 2nd, I believe it is. Did Mr. Kehert register at your hotel on that day?

A. Yes.

Q. And who was he with?

A. He is registered as A. Burney and Steve Kehert.

Q. Now, was Mr. Burney living at your hotel last two weeks of May?

A. No, I don't have any record of him being there at all.

(Testimony of Clifton C. Nichols.)

Q. And how long did they stay there in June?

A. Three days. Five days all together.

Q. They re-registered again?

A. On the 5th.

Q. On the 5th. Then is it your testimony, Mr. Nichols, that Mr. Kehert and Mr. Burney stayed at your motel on the 2nd, 3rd and 4th and re-registered again and stayed on the 5th and 6th?

A. That's right. [534]

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: No further questions. That's all, Mr. Nichols.

(Witness excused.)

Mr. Stevens: May we have the recess, your Honor.

The Court: Ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 2:50 p.m., the court took a recess until 3:02 p.m., at which time it reconvened and the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Taylor: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

The Court: Very well. Proceed.

Mr. Stevens: Mr. Trafton, please. Oh, just a moment, I would like to call Mr. Gore. Again I state to the court he has been in the court room part of the time during this hearing, your Honor.

Mr. Taylor: I will waive it.

Mr. Stevens: Do you waive your right entirely?

Mr. Taylor: I waive as to rebuttal testimony only, not direct evidence, your Honor.

The Court: Is that satisfactory?

Mr. Stevens: No. I won't call Mr. Gore, but I ask the court to strike entirely from the record the testimony of Mr. Burney. Mr. Burney was in this court room for a period [535] of almost two hours during the course of this trial.

The Court: Is that true, Mr. Taylor; do you know?

Mr. Taylor: Not that I know of. I never met Mr. Burney, because when I met Mr. Burney I told him not to come to the court room.

Mr. Stevens: I believe he was seen by many witnesses in the court room, your Honor, including the bailiff.

The Court: I would have to have some proof that he was in the court room during that time. Where is Mr. Burney?

Mr. Stevens: Mr. Burney here today, Mr. Taylor?

Mr. Taylor: I do not know. I don't believe I have seen him.

Mr. Stevens: Is Mrs. Williams here? Mrs. Williams, were you a spectator here in the court room yesterday?

Mrs. Williams: Yes, sir. I have been in the court room every day since Monday.

Mr. Stevens: Would you care to take the stand concerning this issue.

Mrs. Williams: All I can say is that he was here.

Mr. Stevens: Will you take the stand for that purpose, please.

EFFIE WILLIAMS

a witness called on behalf of the plaintiff as to the collateral issue, was duly sworn and testified as follows: [536]

Direct Examination

By Mr. Stevens:

Q. State your name, please.

A. Effie Williams.

Q. And have you been a spectator in this court room particularly yesterday? A. Yes, sir.

Q. During the course of this trial?

A. Yes, sir.

Q. Did you observe Mr. Burney take the stand?

A. Yes, sir.

Q. Had you observed him in the court room before he took the stand? A. Yes, sir.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Where was Mr. Burney sitting, Mrs. Williams?

A. Yesterday he came in after we were seated. My husband and I passed down the aisle there and went toward the back.

(Testimony of Effie Williams.)

Q. And where were you sitting?

A. On the front row.

Q. Had you seen Mr. Burney before?

A. Yes, sir.

Q. Do you know Mr. Burney? [537]

A. Not personally, no, sir.

Q. When did you first see Mr. Burney?

A. Monday in the court room.

Q. Monday, and where was he sitting Monday in the court room? A. Toward the back.

Q. That was the time they was drawing the jury then, was it, Mrs. Williams?

A. Yes, sir. I have been here every day since the trial started.

Q. And that was the time you saw him go to the rear of the court room? A. Yes, sir.

(Witness excused.)

Mr. Taylor: We don't believe there is sufficient showing, your Honor. There is a lot of them here when they was drawing the jury.

The Court: Well, there was no objection made to him when he presented himself, and as a matter of fact, his evidence is apparently not influenced by what he heard here in this court.

Mr. Stevens: Very well, your Honor.

The Court: I will deny the motion.

WILLIAM TRAFTON

a witness called on behalf of the plaintiff in rebuttal,
was duly sworn and testified as follows: [538]

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. William Trafton.

Q. And where do you reside, Mr. Trafton?

A. Fairbanks.

Q. And what is your business here in Fairbanks,
Alaska?

A. I am employed by the Department of Terri-
torial police.

Q. Were you so employed in June of 1953, and
July of 1953? A. Yes.

Q. Calling your attention to the first week of
July of 1953; did you have occasion to accompany
Mr. McRoberts, the then Acting United States Mar-
shal, in connection with the arrest of two women for
operating a bawdy house? A. Yes, I did.

Q. And do you remember who those women
were?

A. I recall the name of one of them was McAllis-
ter. I don't recall the name of the other one.

Q. Was that Betty McAllister? A. Yes.

Q. And at that time did you see James Ben-
nett? A. Yes, I did.

Q. And where was he?

A. He was in one of the rooms with the [539]
girls.

(Testimony of William Trafton.)

Q. And did you, either you or Mr. McRoberts place Mr. Bennett under arrest at that time?

A. No.

Q. Did he accompany you to the jail?

A. Yes, he did.

Q. And why was that, Mr. Trafton?

A. He said he wanted to go along to get the girls out.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. Did you go down to the jail when Mr. Bennett was being booked?

A. I didn't understand you, sir.

Q. Did you go down to the jail while they were booking Mr. Bennett?

A. I didn't go up to the jail.

Q. You didn't go to the jail? A. No, sir.

Q. You don't know whether they booked him at the jail or not then, Mr. Trafton?

A. I don't know whether they booked him or not.

Q. And where was this bawdy house supposed to be being run by Betty McAllister?

A. It was what they call the Colonial Rooms.

Q. Do you know how long Betty McAllister had been in the Colonial Rooms at the time that you went there? A. No, sir. [540]

Q. Did you know anything about the offense at all?

A. I heard rumors about it is all. That's all.

(Testimony of William Trafton.)

Q. And did you know that there was no prosecution of Betty McAllister after that arrest?

A. Yes, I knew that.

Q. There was no prosecution?

A. As far as I know, there was none.

Mr. Taylor: That's all.

Mr. Stevens: That's all, Mr. Trafton.

Call Mr. Wright.

C. M. WRIGHT

a witness called on behalf of the plaintiff, having been previously sworn, was recalled in rebuttal and testified further as follows:

Direct Examination

By Mr. Stevens:

Q. You have been sworn, have you not, Mr. Wright? A. Yes, sir, I have.

Q. Mr. Wright, when you started undercover work which you testified to previously here, were you a member of the City Police of Odessa?

A. Yes, sir, at that time before we started.

Q. And had you been a member of any other police organization there?

A. I had a Special Deputy's Commission for, since I believe it was March of 1951 up until that time. [541]

Q. And that was with what?

A. The Sheriff's Department.

Q. And Mr. Wright, have you ever used narcotics yourself? A. No, sir, I have not.

(Testimony of C. M. Wright.)

The Clerk: Government's Identifications 62 and 63.

(Copy of a letter to the Mayor of Odessa, Texas, was marked Government's Identification No. 62; Letter from Chief of Police, Lubbock, Texas, was marked Government's Identification No. 64.)

Q. (By Mr. Stevens): I hand you Government's Identifications 62 and 63, Mr. Wright; will you identify those for us?

A. Yes, sir, I will.

Mr. Taylor: Just a brief statement of what they are, Mr. Wright, please.

A. One of them is a letter from Mr. P. A. Williams, District Supervisor of the U. S. Treasury Department in Houston, Texas. The other from the Chief of Police of Lubbock, Texas.

Q. (By Mr. Stevens): Did you receive these letters as a result of your work? A. Yes, sir.

Q. As a Special Agent? [542]

A. Yes, sir.

Q. Now, Mr. Wright, how many trips did you make with Mr. Bennett?

A. Well, I went to Lubbock with him, went to Big Springs with him.

Q. And did you testify that you met him somewhere?

A. Yes, sir, I met him at Amarillo, Mink Club.

Q. And were you informed—strike that, will

(Testimony of C. M. Wright.)

you, please. Did Mr. Bennett know your identity at that time? A. No, sir, he did not.

Mr. Stevens: Your witness, Mr. Taylor.

Cross-Examination

By Mr. Taylor:

Q. When did you quit using narcotics, Mr. Wright?

A. Mr. Taylor, I am not a dope addict. I am not a loan shark, and I am not a shyster lawyer.

Q. Do you have those things down in Texas?

A. Sir?

Q. Do you have those things down in Texas?

A. We are trying to get rid of most of them.

Q. Now, Mr. Wright, yesterday upon examination I asked you a question regarding Mr. Kehert being—or you testified as to Mr. Kehert being in Odessa, Texas, on the 18th day of May, 1953. I asked you six different times if you saw Mr. Kehert there at the apartment of Mr. Bennett, did I not?

A. You asked me a lot of times. [543]

Q. And you said each time that he was there, that you saw him come up in a laundry truck?

A. Yes, sir, that's right.

Q. And you still say that that is true?

A. Yes, sir, I do.

Q. Now, I will hand you Defendant's Identification, Exhibit "A," which is a check issued to, by Mr. Kehert's employer on the 16th day of May, 1953, at Anchorage, Alaska, and cashed on the 18th day of May, 1953?

(Testimony of C. M. Wright.)

Mr. Stevens: I object to that. There is no evidence before this court that it was cashed on the 18th day of May. There is evidence here, if the jury wishes to find that it went through the bank on the 18th day of May. There is no evidence it was cashed on the 18th day of May.

The Court: Objection sustained.

Q. (By Mr. Taylor): And if also the record, Mr. Wright, shows that Mr. Kehert was in Anchorage up until the 5th day of June, 1953, would you still say that the evidence that you give was true as to him being in Odessa on the 18th day of May, 1953? A. Yes, sir, I sure will.

Q. You are still sticking to it?

A. Yes, sir, I am.

Q. And that testimony then is just as true as the other testimony you have been giving; is that right?

A. It is all true. [544]

Q. In spite of the fact that Mr. Kehert drew a check from his employer on the 16th, was cashed on the 21st, and that he was working there according to that one the 9th day of May?

Mr. Stevens: Just a moment. Mr. Taylor now says the check was cashed on the 21st. There is no evidence before the court as to when that check was cashed.

The Court: Let me see those checks.

Mr. Stevens: And to add, as my learned counsel over here says, the check speaks for itself. Thank you, Mr. Hurley.

Q. (By Mr. Taylor): Now, on the face of those

(Testimony of C. M. Wright.)

exhibits then, Mr. Wright, you are still saying that the statement you are making about Mr. Kehert is as true as the other statements you have made?

A. I didn't make no mistake about Mr. Kehert.

Q. No, your statement that he was in Odessa May the 18th?

A. Yes, sir, he was.

Mr. Stevens: Thank you, Mr. Wright.

(Witness excused.)

Mr. Stevens: Call Mr. Harkabus.

EDWARD J. HARKABUS

a witness called on behalf of the plaintiff, having been previously sworn, was recalled in rebuttal and testified further as follows: [545]

Direct Examination

By Mr. Stevens:

Q. This is Government's Identification 57, Mr. Harkabus, will you tell us what that is?

A. This is a warrant that was issued by Mrs. Nordale on July the 6th, and it bears the notation and my signature that the warrant had been served and I made the return on the bottom on July 7th. I returned it and stated that it had been served on the 6th.

Q. And when you arrested Mr. Bennett did you tell him he was arrested for aiding and abetting?

A. I did not.

Q. And when you arrested Mr. Kehert did anyone in your presence boot him around?

(Testimony of Edward J. Harkabus.)

A. They did not.

Q. Did you jump on him and put your pistol in his face, Mr. Harkabus?

A. When I opened the door and covered Mr. Kehert with my revolver? I testified to that. At no time did I put my pistol at his head.

Mr. Stevens: Your witness, Mr. Taylor.

Mr. Taylor: That's all.

(Witness excused.)

Mr. Stevens: Your Honor, we offer Government's Identification 57 in evidence.

Mr. Taylor: We object, your Honor, upon the grounds that they are not competent evidence. There is no [546] proceedings taken under that unless the final order of discharge by Mrs. Nordale is brought into court with them to show that there was no prosecution under that warrant of arrest and complaint. Highly prejudicial, your Honor, and they only attempted to be sought, to be introduced in this case.

Mr. Stevens: It is relevant to show that Mr. Bennett was not arrested for aiding and abetting.

The Court: Objection overruled.

The Clerk: Government's Exhibit "X."

(Government's Identification No. 57 was received in evidence as Government's Exhibit "X.")

Mr. Stevens: The government rests, your Honor.

Mr. Taylor: We rest.

The Court: Now, how much time do you need for argument?

Mr. Taylor: Oh, fifty minutes.

The Court: Is that satisfactory, fifty minutes to a side? Will counsel come forward, please?

(At this time the attorneys approached the bench and the following proceedings were had out of the hearing of the jury.)

The Court: I just wanted to know if you want to waive the stenographer taking the first part of this. We have got all of the instructions out, but just aren't separated. It should take about ten minutes. If you want to waive having the stenographer in court, you can go right ahead with [547] your argument and she can go ahead with her instructions and she will come back as soon as she gets them ready.

Mr. Taylor: Would the Court rather argue this to the jury in the morning?

The Court: Oh, no; tomorrow is Saturday morning and some are very anxious to get it done today.

Mr. Taylor: I am anxious. I thought maybe it would be pretty late.

The Court: But right now what do you say about that?

Mr. Taylor: That's all right with me.

Mr. Stevens: Yes, your Honor.

(The following proceedings were had in the hearing of the jury.)

(The reporter left the courtroom and Mr. Yeager presented argument to the jury.)

(Mr. Taylor presented argument to the jury.)

(Mr. Stevens presented rebuttal argument to the jury.)

(At this time, the Court read the instructions to the jury as follows.)

INSTRUCTIONS TO THE JURY

(a) (1) Section 2421, Title 18, of the United States Code (New) provides in substance that whoever knowingly transports, in interstate commerce or in any Territory of the United States any woman or girl for the purpose of prostitution shall [548] be guilty of the crime denounced in said Section 2421, Title 18, U.S.C., and shall be fined or imprisoned or both as provided by such section.

(2) All persons are presumed to know their own acts unless the contrary has been shown.

(3) The word "feloniously" means the unlawful doing of an act which may be punished by imprisonment in the penitentiary, such as the crime charged in this case. The word "knowingly" as mentioned in Section 2421, Title 18, U.S. Code, is included in the word feloniously mentioned in the Indictment in this case.

(4) The word "prostitution" as used in the Indictment in this case means the practice of a female offering her body to indiscriminate sexual intercourse with men for hire.

(5) Although it is alleged in the indictment that

the crimes denounced therein were committed on or about the 28th day of June, 1953, it is only necessary that the plaintiff, the United States, prove beyond a reasonable doubt that the crimes denounced in said indictment were committed within three years prior to the date of the indictment, to wit, November 13, 1953.

(b) (1) Count I of the indictment in this case is as follows, to wit: "That Fern Bennett, also known as Betty McAllister; Norma Ruth Crosby, Wesley Kehert and James J. Bennett, also known as Jack Bennett, on or about the 28th day of June, 1953, in the Fourth Judicial Division, Territory of Alaska, then and there being, did then and there feloniously [549] transport in interstate commerce, to wit, from the State of Texas to the Territory of Alaska, a woman, to wit, Marilyn Jean Casey, for the purpose of prostitution, in violation of Title 18, Section 2421, of the United States Code Annotated."

(2) The jury is instructed that if the United States of America, plaintiff, has proved each of the allegations of Count I of said indictment beyond a reasonable doubt, as to any one of the defendants, the jury should find such defendant guilty of the crime charged against him or her in Count I of said indictment.

(3) The jury is further instructed that if the United States of America, plaintiff, has failed to prove beyond a reasonable doubt, any one of the allegations of Count I of said indictment, as to any one of said defendants, the jury should find such

defendant not guilty of the crime charged against him or her in Count I of said indictment.

(4) Count II of the indictment in this case is as follows, to wit: "That Fern Bennett, also known as Betty McAllister; Norma Ruth Crosby, Wesley Kehert and James J. Bennett, also known as Jack Bennett, on or about the 28th day of June, 1953, in the Fourth Judicial Division, Territory of Alaska, then and there being, did then and there feloniously conspire to commit an offense against the United States, and did an act to effect the object of the conspiracy, to wit, transport in interstate commerce, to wit, from the State of Texas to the Territory of Alaska, in violation of Section 2421 [550] of Title 18 of the United States Code Annotated, a woman, to wit, Marilyn Jean Casey, for the purpose of prostitution in violation of Section 371 of Title 18 of the United States Code Annotated."

(5) The jury is instructed that if the United States of America, plaintiff, has proved each allegation of Count II of said indictment beyond a reasonable doubt, as to any two or more of said defendants, the jury should find such defendants guilty of the crime charged against him or her in Count II of said indictment.

(6) The jury is further instructed that if the United States of America, plaintiff, has failed to prove beyond a reasonable doubt, any one of the allegations of Count II of said indictment, as to any two or more of said defendants, the jury should

find such defendants not guilty of the crime charged against him or her in Count II of said indictment.

(7) Section 371, Title 18, United States Code (New) provides in substance as follows: That if two or more persons conspire to commit any offense against the United States and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined or imprisoned or both as provided for in said Section 371.

2.

The jury is instructed:

(a) That a conspiracy is constituted by an agreement; that it is, however, the result of the agreement and not the [551] agreement itself. No formal agreement between the parties is essential to the formation of the conspiracy for the agreement may be shown if there be concert of action, all the parties working together understandingly, with a single design for the accomplishment of a common purpose.

(b) The crime is complete when an overt act to effect the object of the conspiracy is done by at least one of the conspirators. All of the conspirators need not join in the commission of an overt act, for, if one of the conspirators commits an overt act, it becomes the act of all the conspirators.

On the other hand, an accused must join in the agreement to be guilty of a violation of the statute, for even if he commits an overt act, he does not violate the conspiracy statute unless he joined in the agreement.

(c) The overt act must reach far enough toward the accomplishment of the desired result to amount to the commencement of the consummation, and if the act of a conspirator be done with the purpose of putting the unlawful agreement into effect, it is sufficient, although it has no tendency to accomplish its object. The conspiracy is complete on the forming of the criminal agreement and the performance of at least one overt act is furtherance thereof, and, if several overt acts are charged in the indictment, it will be sufficient to show that one or more of those acts were committed in furtherance of the conspiracy.

The cases make it clear that actually transporting [552] a woman for the purpose of prostitution denounced by Section 371, Title 18, U. S. Code, constitutes the overt act required.

(d) The jury is instructed that the laws in force in Alaska in June, 1953, and thereafter make it clear that the actual transportation of women for prostitution contrary to the provisions of Section 2421, Title 18, United States Code, constitutes the overt act required by Section 2421.

(e) Proof of a conspiracy may be by circumstantial evidence, oftentimes by overt acts alone, in which case much is left to the discretion of the trial court. In such cases great latitude is allowed, and appellate courts will not reverse a case unless practical injustice has been done by the admission of irrelevant testimony.

(f) You are instructed that there are two general classes of evidence, direct and circumstantial. Evidence as to the existence of the main fact in issue is direct evidence, while circumstantial evidence relates to the existence of facts which raise a logical inference as to the existence of the main fact in issue.

It is not necessary to prove a case by the testimony of eyewitnesses, but the same may be established by facts and circumstances from which issues of the case may be reasonable and satisfactorily inferred.

Circumstantial evidence is to be regarded by the jury in all cases where it is offered. Sometimes it is quite as convincing in its power as the direct and positive evidence [553] of eyewitnesses, and when it is strong and satisfactory, the jury should so consider it, neither enlarging or belittling its force, but the circumstances when taken together should be of a conclusive nature and tendency, leading on the whole to a satisfactory conclusion.

3.

You are instructed that the necessary purpose and motive of the defendants herein need not be proved by direct evidence, for it may be shown by circumstantial evidence from which you the members of the jury have the right to infer purpose and motive. For instance, conduct of the parties involved in this case a reasonable time before and after the alleged transportation may be taken into consideration as circumstantial evidence to deter-

mine whether or not the alleged purpose or motive existed.

4.

You are instructed that certain testimony of the witnesses before this Court may have tended to connect the defendants, or at least some of them, with the commission of certain other illegal or immoral acts, and that you should consider this evidence only in relation to the issue of whether or not the defendants herein in fact had the motive or purpose to their trip to Alaska which the Government has charged in the indictment herein; you should not consider such testimony otherwise, for the defendants are only on trial before this court for the offenses set forth in the indictment. [554]

5.

You are instructed that the laws of the United States of America provide that "Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission is a principal," and that in this case if you find that the defendants, or any one or more of them, aided, abetted, counseled, commanded, induced or procured the commission of the offenses charged in the indictment herein, such defendants, or any one or more of them, are guilty as principals or principal, as the case may be.

6.

You are instructed that if you find one or more of the defendants was, or were, not physically present in the vehicle in which Marylian Jean Casey

crossed the imaginary barrier between the Canadian-Washington boundaries and between the Canadian-Alaskan boundaries, such fact alone would not have any effect upon the guilt or innocence of the defendants herein, for the statute under which the indictment herein is brought cannot be evaded by the mere acts, as the crime stated in the indictment herein is the transportation of a woman for the purpose of prostitution from Texas to Alaska, not the mere transportation of a woman across imaginary lines, and one who transports a woman for the purpose set forth in the indictment herein, or one who aids in, or brings about such transportation is guilty of the offense charged. [555]

7.

You, the members of the jury, are instructed that you need consider the purpose of the defendants only in making the trip alleged to have been made from Texas to Alaska. The purpose of Marylian Jean Casey in making the trip is not material to the issues before this court. Therefore, the Government in this case need not prove that the defendants, or any of them, induced Marylian Jean Casey to come to Alaska, for even if she came to Alaska willingly and without coercion or inducement, you may find the defendants herein guilty as charged if the Government proves to you beyond a reasonable doubt all the allegations of the indictment herein.

8.

You are instructed that because of the nature of the offense, normally only the results of a con-

spiracy and not the actual plotting are observed, and that, therefore, to constitute an unlawful conspiracy, no formal agreement need be proved, and you the members of this jury may rely upon circumstantial evidence to infer the existence of a conspiracy in this case, providing you find that the circumstances of this case support the inference, beyond a reasonable doubt, that the defendants possessed a unity of purpose or a common design.

9.

You are instructed that although the Government called Marylian Jean Casey to testify in this action, because of the [556] obvious hostility of said witness toward the prosecution, this Court allowed the Government to show not only that she made prior statements inconsistent with her testimony before this Court, but also the Court has permitted the Government to offer her prior statements in evidence. These statements have been received in evidence to allow you, the members of the jury, to give the proper weight to the testimony which Miss Casey gave in this Court before you during the trial of this case.

10.

You are instructed that it is not necessary that the sole purpose of the trip alleged to have been taken by the defendants herein be shown to have been the transportation of Marylian Jean Casey for the purpose of prostitution, for it is sufficient if the Government has shown to you, beyond a reasonable doubt, that one of the dominant motives of the de-

endants was to transport Miss Casey so that she could engage in prostitution in Alaska.

11.

You are instructed that the Court has admitted into evidence during the course of this trial, certain items which have been brought before this Court as business records made in the regular course of business, and that all circumstances, including the lack of personal knowledge of the maker or entrant may be taken into consideration by you in determining the weight to be given to this evidence. [557]

12.

You are instructed that the statute under which the indictment in this case has been presented to this Court prohibits the interstate transportation of a woman for the purpose of prostitution and similarly prohibits transportation of a woman for the same purpose within the Territory of Alaska, and that, even though the original object of the trip alleged to have been made by the defendants herein may have been a lawful object, if you find that these defendants formed the unlawful design, charged in the indictment herein, before the completion of their alleged trip to Alaska, and all other material allegations herein have been proved to you beyond a reasonable doubt, you may find the defendants guilty as charged.

13.

You are instructed that the laws of the Territory of Alaska lay down the following general rules for your guidance as to the value of evidence, to wit:

1. That you are not bound to find in conformity with the declarations of any number of witnesses which do not produce conviction in your minds against a less number, or against a presumption or other evidence satisfying to your minds.

2. That a witness wilfully false in one part of his testimony may be distrusted in others.

3. That evidence is to be estimated not only by its own intrinsic weight, but also according to the evidence which [558] it is in the power of one side to produce and of the other to contradict; and, therefore,

4. That if the weaker and less satisfactory evidence is offered when it appears that stronger and more satisfactory evidence was within the power of the party, the evidence offered should be viewed with distrust.

5. That oral admissions of a party should be viewed with caution.

14.

You are instructed as follows:

1. That you should not consider any evidence sought to be introduced, but excluded by the Court, nor should you consider any evidence that has been stricken from the record by the Court.

2. That it is manifestly impossible for the Court to cover the law of this case in a few instructions and that, therefore, you should consider all the instructions together and not disconnectedly.

3. That wherever in these instructions the masculine is used, it shall be deemed to include the feminine, unless the context shows it to be inapplicable.

4. That you should endeavor to agree upon a verdict and should calmly reason with your fellows with the view of arriving at a verdict. You should not refuse to agree from pride of opinion, nor should you surrender any conscientious views founded on the evidence or lack of evidence. [559]

5. That wherever in these instructions the singular is used, it shall be deemed to include the plural, unless the context shows it to be inapplicable.

15.

You are instructed that the indictment is a mere accusation and is not in itself any evidence of the defendant's guilt.

The defendant has pleaded not guilty to the matters set forth in said indictment. That plea puts in issue every material allegation of the indictment and puts the burden of proof upon the plaintiff to prove every such allegation beyond a reasonable doubt. The defendant is presumed to be innocent and until the plaintiff has proven every material allegation of said indictment beyond a reasonable doubt, the defendant is entitled to the continued benefit of the presumption of his innocence.

16.

In regard to the term "reasonable doubt" as used in these instructions and as defined by law, you are instructed as follows:

(a) If, after considering all of the evidence in the case, there is in the minds of the jury a fixed conviction that the defendant is guilty and that conviction arises out of the evidence in the case, the jury would be justified in considering that there is no reasonable doubt in the minds of the jury in the sense in which the term is used in law. [560]

(b) A doubt, to be such a reasonable doubt, must be actual and substantial and not a mere fanciful speculation. It cannot be a reasonable doubt if it ignores a reasonable interpretation of the evidence or lack of evidence within the power of a party to produce or arises merely from sympathy or a vague fear. The rule of law as to a reasonable doubt is a practical rule for the guidance of practical jurors when engaged in the solemn duty of assisting in the administration of justice and is not whimsical or fanciful. A mere possibility of error or mistake does not constitute a reasonable doubt. Despite every precaution that may be taken to prevent it, there may be in most human affairs a mere possibility of error. A doubt, to be a reasonable one, must have a real, substantial basis and not be mere fancy or conjecture. It must be such a doubt as would give rise to grave uncertainty and make the juror feel that he did not have an abiding conviction of the defendant's guilt. To prove a proposition beyond a reasonable doubt, the evidence or lack of evidence must be such that it would convince a prudent man of its truth to such a degree of certainty that he would feel like acting upon such

conviction in matters of the highest import to his own personal interests.

17.

The jury is instructed that they should bring to bear upon the consideration of the evidence or lack of evidence in this case all of the common knowledge of men and affairs which [561] they, as reasonable human beings, have and exercise in every-day affairs of life. Accordingly, you should draw from the evidence or lack of evidence in this case all deductions which appear to you to flow logically from the evidence or lack of evidence. Whatever verdict is warranted by the evidence under the instructions of the Court, you should return as you have sworn to do.

18.

You are instructed that a person charged with the commission of a crime shall at his own request, but not otherwise, be deemed a competent witness in his own behalf—the credit to be given to his testimony being left solely to the jury under the instructions of the Court.

You are instructed that in this case the credit to be given to the testimony of the defendant, who has voluntarily offered himself as a witness and testified in his own behalf, is left solely to you, and you should give it the same fair and candid consideration as you do the testimony of other witnesses in the case, but you have a right to take into consideration the interest of the defendant in the result of the trial as affecting his credibility.

19.

You are instructed that in the trial of a criminal case the person accused is a competent witness in his own behalf, at his own request, but not otherwise, the credit to be given to his testimony being left solely to the jury under the [562] instructions of the Court. If the defendant does not choose to appear as a witness in his own behalf, the laws of Alaska provide that his waiver to so testify shall not create any presumption against him, and you will, therefore, in this case not permit the failure of some of the defendants to testify to create any presumption in your minds against their innocence.

20.

Pursuant to the foregoing instructions, I have prepared a form of verdict which is self-explanatory.

Upon retiring to your jury room you should elect a foreman and by him or her sign the verdict upon which you unanimously agree.

Herewith I hand you these instructions for your guidance, together with the exhibits that have been introduced in evidence, the indictment in the case, and the form of verdict above mentioned. Return all of these in to Court with your verdict.

Dated at Fairbanks, Alaska, this 14th day of May, 1954.

/s/ HARRY E. PRATT,
District Judge.

(Insert in blanks the words “guilty” or “not guilty” or names, according to your finding.)

(At the conclusion of the Court reading the instructions to the jury, the following proceedings were had.)

The Court: Attorneys may come forward for exceptions. [563]

(The attorneys approached the bench, and the following proceedings were had out of the hearing of the jury.)

Mr. Taylor: If the Court please, I would like to take exception to Instruction No. 7. It is erroneous statement of the law in that the purpose, it states that the purpose of Marilyn Jean Casey is not material to the issues in this court, and also that such an instruction would mean that a person who embarked on an entirely innocent trip and transported anybody not knowing they were going to engage in prostitution, make them subject to prosecution.

The Court: Just one second. I will read that over again. Objection overruled.

Mr. Taylor: Then, No. 10. I think in view of the uncontradicted testimony, your Honor in this case that all of the defendants had planned to come to Alaska prior to meeting Marilyn Jean Casey, that the dominant motive of the defendants to come to Alaska was not the transportation of Marilyn Jean Casey to engage in prostitution in Alaska, because the dominant purpose of coming back was

to return to Anchorage. All the testimony is that they had planned to come before they ever met Marilyn Jean Casey.

The Court: Objection overruled.

Mr. Taylor: I believe that is all.

Mr. Stevens: No objections.

Mr. Taylor: I want to object further—further objecting, failure of the court to give defendants requested [564] Instructions Nos. 1, 2, 3, 4, 5, 6, 7 and 8.

The Court: Objection overruled.

(Thereupon, the attorneys withdrew from the bench and the following proceedings were had in the hearing of the jury.)

The Court: The jury may retire in the custody of the bailiffs.

(At 6:10 p.m., the jury, in charge of its sworn bailiffs, retired to enter upon its deliberations.)

United States of America,
Territory of Alaska—ss.

I, Mary F. Templeton, official court reporter for the District Court, District of Alaska, Fourth Judicial Division, Fairbanks, Alaska, do hereby certify as follows, to wit:

That I was the official court reporter for the above-named Court on May 10, 11, 12, 13 and 14, 1954, the dates upon which the cause of United States of America v. Bennett, et al., was heard;

That I recorded in shorthand all of the oral proceedings had in open court upon said dates; that the foregoing pages, numbered 1 through 565, inclusive, are a full, true, complete and accurate transcript from my original shorthand notes.

Dated at Fairbanks, Alaska, this 5th day of August, 1954.

[Seal] /s/ MARY F. TEMPLETON,
 Official Court Reporter.

Subscribed and sworn to before me this 5th day
of August, 1954.

/s/ JOHN B. HALL,
Clerk of the Court. [565]

[Title of District Court and Cause.]

AFFIDAVIT OF CLERK

I, John B. Hall, Clerk of the above-entitled Court, do hereby certify that the proceedings listed below comprise all proceedings listed by the defendant and appellant on his Designation of Record and the same on the Designation of Record and Additional of Record of the plaintiff and appellee, viz.:

1. Indictment.
2. Verdict.
3. Motion for New Trial.
4. Minute Order Denying Motion for New Trial.
5. Judgment and Commitment.
6. Notice of Appeal (in duplicate).

7. Designation of Record of Defendant and Appellant.

(Transcript of the Record of the Trial mailed previously by counsel for the defendant.)

8. Counter Affidavit in Regard to Motion to Suppress Evidence of Edward J. Harkabus.

9. Counter Affidavit of John W. Worsham, same matter.

10. Counter Affidavit of Edward J. Harkabus, same matter.

11. Affidavit of Theodore F. McRoberts.

12. Designation of Record of Plaintiff and Appellee.

13. Counter Affidavit of John W. Worsham, in re Suppression of Evidence.

14. Additional Designation of Record of Plaintiff and Appellee.

Witness my hand and the seal of the above-entitled Court this 16th day of October, 1954.

[Seal] /s/ JOHN B. HALL,
Clerk of Court.

In the United States Court of Appeals
for the Ninth Circuit

No. 14,551

JAMES J. BENNETT, a/k/a JACK BENNETT,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS

The appellant, James J. Bennett, hereby states that the points upon which he intends to rely upon appeal are as follows, to wit:

1. That the verdict was contrary to the evidence.
2. That the verdict is not supported by substantial evidence.
3. That the verdict is contrary to the law.
4. That the Court erred in overruling defendant's motion to suppress evidence unlawfully seized.
5. That the Court erred in admitting irrelevant, incompetent and immaterial testimony over the objection of defendant.
6. That the Court erred in refusing to give defendant's requested instructions Nos. One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8).
7. That the Court erred in giving instructions Nos. Seven (7), Nine (9), Ten (10), and Twelve (12) to the jury, as not the law of the case.

8. That the Court erred in overruling defendant's motion for judgment of acquittal made at the close of the plaintiff's case and at the close of the entire case.

9. That the Court erred in overruling defendant's motion for new trial.

10. That the verdict of the jury was a coerced verdict for the reason that the said jury was required to consider said cause for a period of forty-four (44) hours.

/s/ WARREN A. TAYLOR,
Attorney for Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed October 6, 1954.

[Endorsed]: No. 14,551. United States Court of Appeals for the Ninth Circuit. James J. Bennett, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the District Court for the District of Alaska, Fourth Judicial Division.

Filed October 18, 1954.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the
Ninth Circuit.